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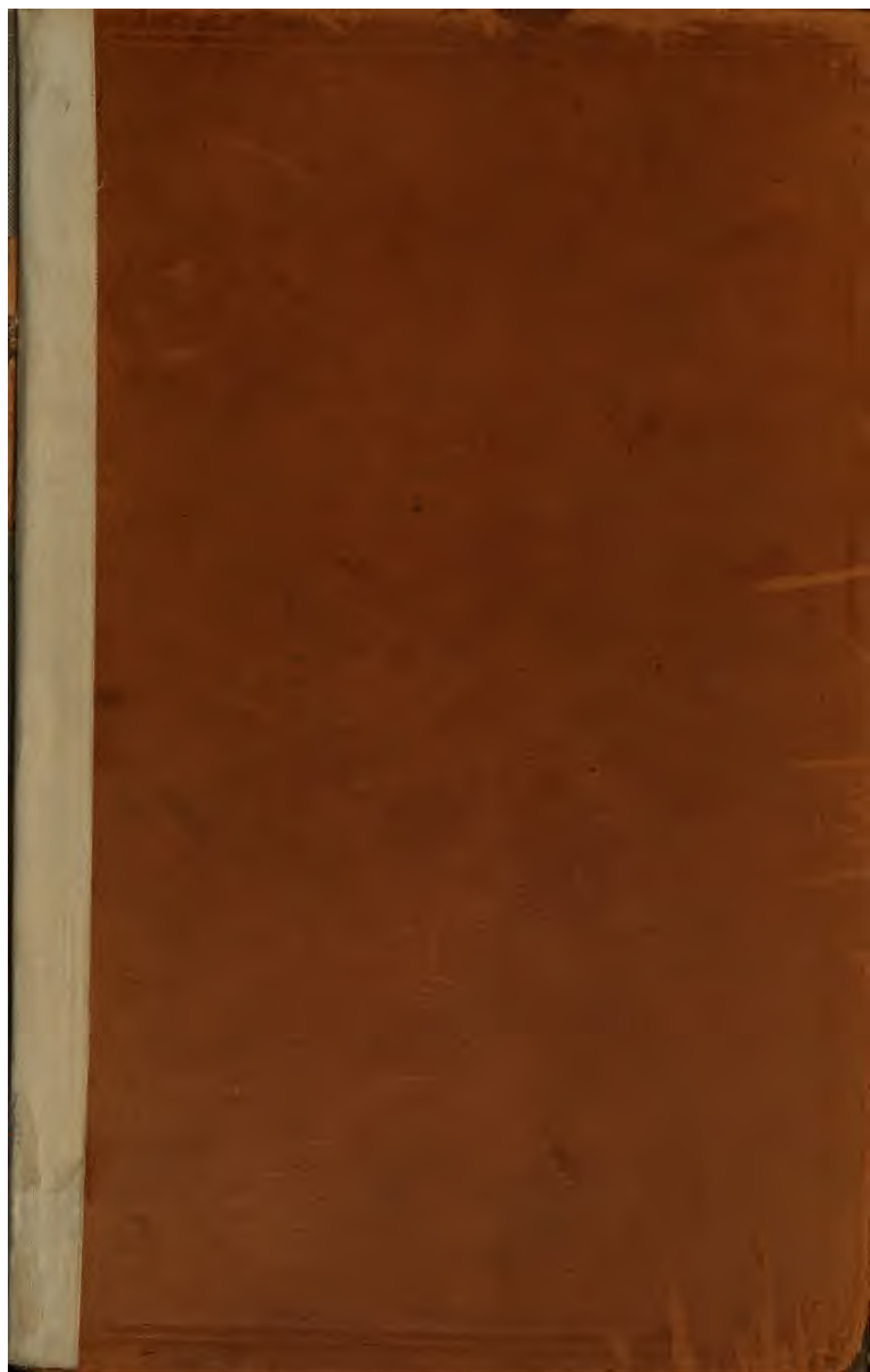
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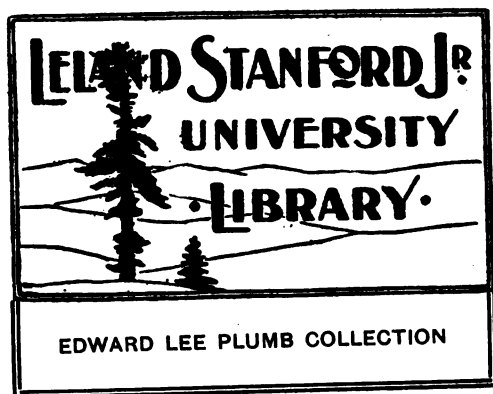
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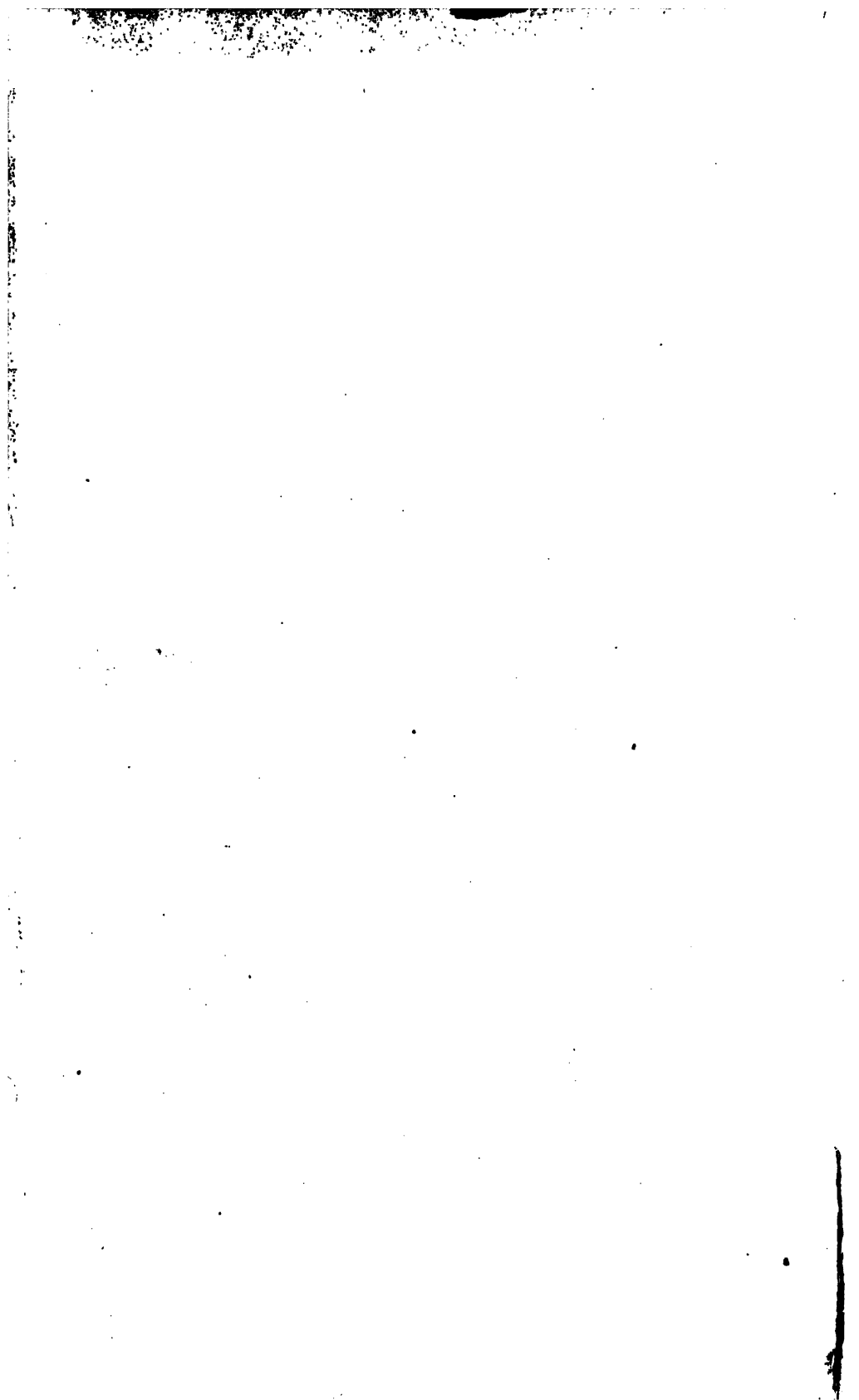
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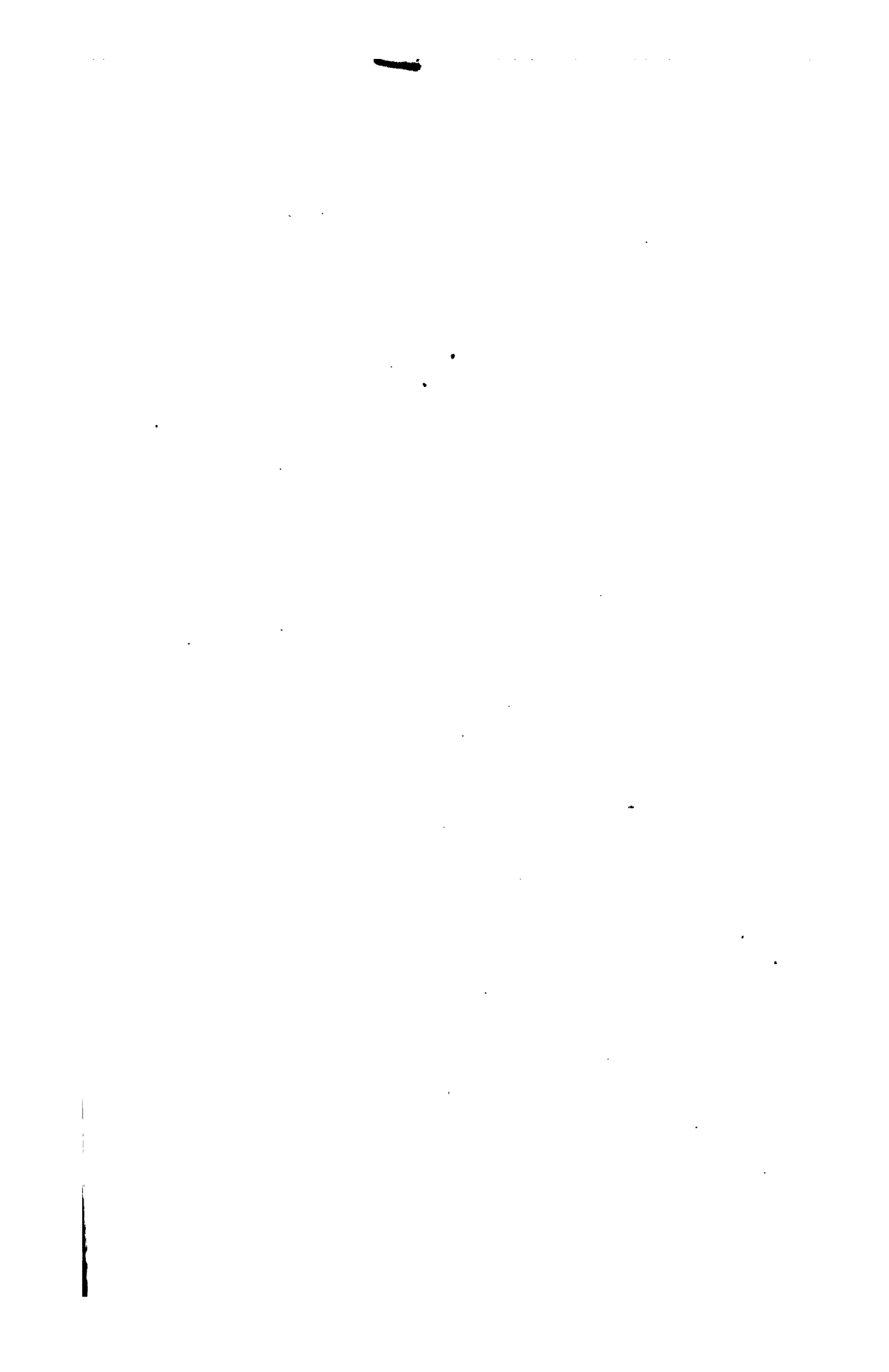


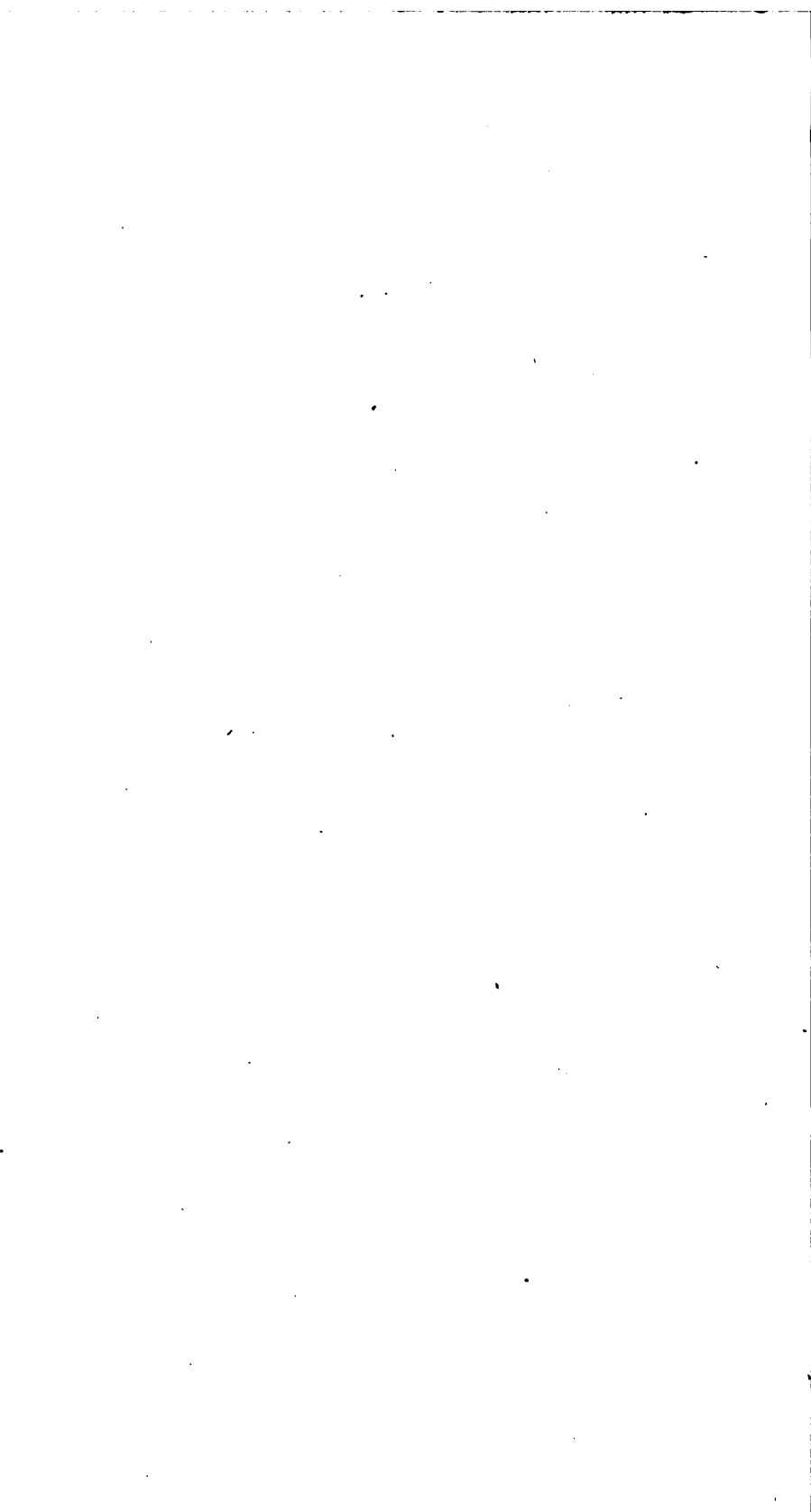


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THE
MINING STATUTES
OF THE
UNITED STATES,
CALIFORNIA AND NEVADA.

EMBRACING ALL STATUTES NOW IN FORCE;

WITH ALL THE LAWS RELATING TO MINES, MINING, AND MINERAL LANDS,
PASSED BY THE CONGRESS OF THE UNITED STATES, AND THE
LEGISLATURES OF THE STATE OF CALIFORNIA, AND
TERRITORY AND STATE OF NEVADA.

*CHRONOLOGICALLY ARRANGED, WITH A FULL COLLECTION
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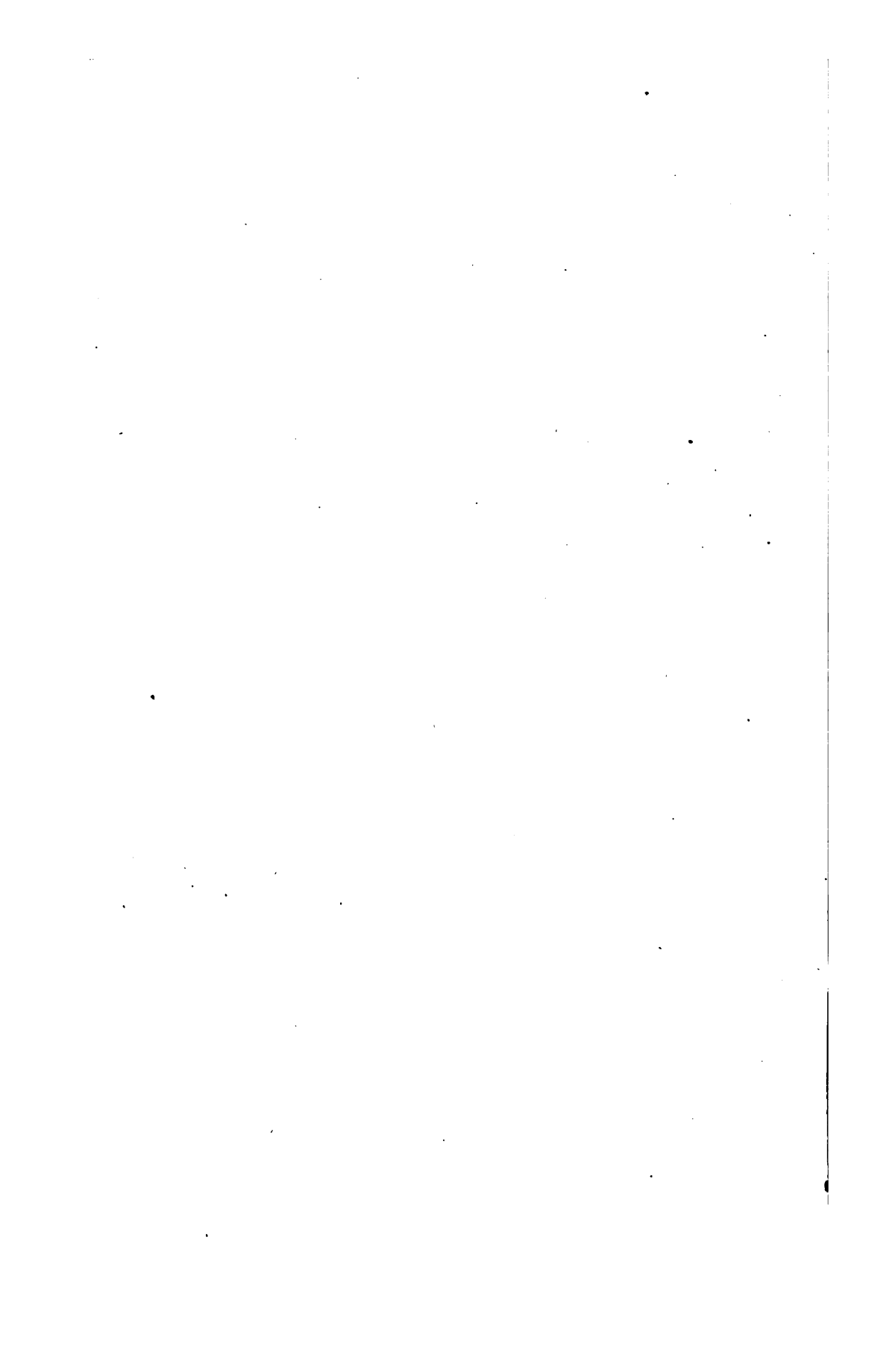
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PREFACE.

The Statutes of the United States relating to Mines, Mining and Mineral Lands, are now embraced in the Revised Statutes of the United States, and such subsequent legislation as may have been had since the first day of December, 1873.

There is a desire among those interested in the pursuit of mining enterprises to possess a work, in compact form, giving a history of all mining legislation. We have endeavored in this little volume to comply with that work. Our arrangement has been to give the law as embraced in the Revised Statutes of the United States, with such subsequent legislation having any reference to the subject, and all general laws passed prior to the adoption of the Statutes, in chronological arrangement. Also, all laws on the same subject passed by the Legislatures of the States of California and Nevada, together with all Mining Forms now in use.



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REVISED STATUTES
OF THE
UNITED STATES
REGARDING
MINING AND MINERAL LANDS.

Sec. 910. Mining Title.

No possessory action between persons, in any court of the United States, for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession.

Sec. 2238. Register and Receivers.

A fee of five dollars for filing and acting upon each application for patent or adverse claim filed for mineral lands, to be paid by the respective parties.

Sec. 2258. Lands not subject to Pre-emption.

The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of pre-emption, to wit:

1. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.
2. Lands included within the limits of any incorporated town, or selected as the site of a city or town.
3. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.
4. Lands on which are situated any known salines or mines.

Sec. 2318. Mineral Lands Reserved.

In all cases, lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law.

Sec. 2319. Mineral Lands open to Purchase by Citizens.

All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners, in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Sec. 1, Act May 10, 1872.

Sec. 2320. Length of Mining Claims upon Veins or Lodes.

Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the tenth of May, eighteen hundred and seventy-two, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end-lines of each claim shall be parallel to each other.

Sec. 2, Act May 10, 1872.

Sec. 2321. Proof of Citizenship.

Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

Taken from latter part of Sec. 7, Act May 10, 1872.

Sec. 2322. Locator's Rights of Possession and Enjoyment.

The locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein,

lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with State, Territorial and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside such surface-lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end-lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

Sec. 3, Act May 10, 1872.

Sec. 2323. Owners of Tunnels, Rights of.

Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

Sec. 4, Act May 10, 1872.

Sec. 2324. Regulations made by Miners.

The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to

the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the tenth of May, eighteen hundred and seventy-two, ten dollars' worth of labor shall be performed or improvements made by the tenth day of June, eighteen hundred and seventy-four, and each year thereafter, for each one hundred feet in length along the vein, until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to re-location in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvements, may, at the expiration of the year, give such delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if, at the expiration of ninety days after such notice in writing or by publication, such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

Sec. 5, Act May 10, 1872.

This section was further amended by the following Act:

An Act to amend section 2324 of the Revised Statutes, relating to the development of the mining resources of the United States. (Approved February 11, 1875.)

Be it enacted, etc., That section two thousand three hundred and twenty-four of the Revised Statutes be, and is hereby, amended so that where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so ex-

pended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said Act; and such person or company shall not be required to perform work upon the surface of said lode or lodes in order to hold the same as required by said Act.

(Sec. 5. Amended June 6, 1874. That the time for the first annual expenditure on claims located prior to the passage of said act, shall be extended to the first day of January, eighteen hundred and seventy-five.)

Sec. 2325. Patents for Mineral Lands, how obtained.

A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this chapter, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat, previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land-office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land-office, upon the filing of such application, plat, field-notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to such claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended, or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat

and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land-office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter.

Sec. 6, Act May 10, 1872.

Sec. 2326. Adverse Claim, Proceedings on.

Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land-office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the commissioner of the general land-office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court, that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment-roll to the commissioner of the general land-office, as in the preceding case, and patents shall issue to the several parties accord-

ing to their respective rights. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

Sec. 7, Act May 10, 1872.

Sec. 2327. Description of Vein—Claims on Surveyed and Unsurveyed Lands.

The description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued for claims upon unsurveyed lands, the surveyor-general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

Sec. 8, Act May 10, 1872.

Sec. 2328. Pending Applications; Existing Rights.

Application for patents for mining claims, under former laws now pending, may be prosecuted to a final decision in the general land office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this chapter; and all patents for mining claims upon veins or lodes heretofore issued shall convey all the rights and privileges conferred by this chapter, where no adverse rights existed on the tenth day of May, eighteen hundred and seventy-two.

Sec. 9, Act May 10, 1872.

Sec. 2329. Conformity of Placer Claims to Surveys, Limit of.

Claims usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry, in its exterior limits, shall conform to the legal subdivisions of the public lands.

Sec. 12, Act July 9, 1870.

Sec. 2330. Subdivision of Ten-acre Tracts.

Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or association of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the ninth day of July, eighteen hundred and seventy, shall ex-

ceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide pre-emption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

Sec. 12, Act July 19, 1870.

Sec. 2331. Conformity of Placer Claims to Surveys—Limitation of Claims.

Where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public land surveys, and the rectangular subdivision of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision, a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or pre-emption purposes.

Sec. 10, Act May 10, 1872, and Sec. 16, Act July 9, 1870.

Sec. 2332. What Evidence of Possession, etc., to Establish Right to a Patent.

Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State and Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this chapter, in the absence of any adverse claim; but nothing in this chapter shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

Sec. 13, Act July 9, 1870.

Sec. 2333. Proceedings for Patent for Placer Claims, etc.

Where the same person, association or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this

chapter, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section twenty-three hundred and twenty, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim, which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

Sec. 11, Act May 10, 1872.

Sec. 2334. Surveyor-General to appoint Surveyors of Mining Claims.

The surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The commissioner of the general land-office shall also have power to establish the maximum charges for surveys and publication of notices under this chapter; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated, for the publication of mining notices in such district, and fix the rates to be charged by such paper; and to the end that the commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land-office, which statement shall be transmitted with the other papers in the case to the commissioner of the general land-office.

Portion of Sec. 12, Act May 10, 1872.

Sec. 2335. Verification of Affidavits.

All affidavits required to be made under this chapter may be verified before any officer authorized to administer oaths within the land-district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land-office. In cases of contest as to the mineral or agricultural character of land the testimony and proofs may be taken as herein provided, on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper to be designated by the register of the land-office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

Sec. 13, Act May 10, 1872.

Sec. 2336. Where Veins Intersect.

Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right of way through the space of intersection for the purposes of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

Sec. 14, Act May 10, 1872.

Sec. 2337. Patents for Non-Mineral Lands.

Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

Sec. 15, Act May 10, 1872.

Sec. 2338. What Conditions of Sale may be Made by Local Legislature.

As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any state or territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

Sec. 5, Act July 26, 1866.

Sec. 2339. Vested Rights to Use of Water for Mining, etc. Right of Way for Canals.

Whenever, by priority of possession, rights to use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same, and the right of way for the construction of ditches and canals, for the purposes herein specified, is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

Sec. 9, Act July 26, 1866.

Sec. 2340. Patents, Pre-emption, and Homesteads Subject to Vested and Accrued Water Rights.

All patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water-rights as may have been acquired under or recognized by the preceding action.

Part of Sec. 17, Act July 26, 1866.

Sec. 2341. Mineral Lands in which no Valuable Mines are Discovered open to Homesteads.

Wherever, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar or copper discovered, and which are properly agricultural lands, the settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents

per acre, and in quantity not to exceed one hundred and sixty acres; or they may avail themselves of the provisions of chapter five of this title relating to "Homesteads."

Sec. 10, Act July 26, 1866.

Sec. 2342. Mineral Lands, how set apart as Agricultural Lands.

Upon the survey of lands described in the preceding section, the secretary of the interior may designate and set apart such portions of the same as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands, and be subject to all the laws and regulations applicable to the same.

Sec. 11, Act July 26, 1866.

Sec. 2343. Additional Land-Districts and Officers.

The President is authorized to establish additional land-districts and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this chapter.

Sec. 7, Act July 26, 1866.

Sec. 2344. Certain Rights not Affected.

Nothing contained in this chapter shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws; nor to affect the provisions of the act entitled "An Act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

Sec. 2345. Mineral Lands in Certain States Excepted.

The provisions of the preceding sections of this chapter shall not apply to the mineral lands situated in the States of Michigan, Wisconsin, and Minnesota, which are declared free and open to exploration and purchase, according to legal subdivisions in like manner as before the tenth day of May, eighteen hundred and seventy-two; and any bona fide entries of such lands within the States named, since the tenth day of May, eighteen hundred and seventy-two, may be patented without reference to any of the foregoing provisions of this chapter. Such lands shall be offered for public sale in the same manner, at the same minimum price, and under the same rights of pre-emption as other public lands.

Act February 18, 1873.

Sec. 2346. What Grants not to Include Mineral Lands.

No act passed at the first session of the Thirty-eighth Congress, granting lands to States or corporations to aid in the construction of roads or for other purposes, or to extend the time of grants made prior to the thirtieth day of January, eighteen hundred and sixty-five, shall be so construed as to embrace mineral lands which, in all cases, are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

Act of January 30, 1865.

Sec. 2347. Entry of Coal Lands.

Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter by legal subdivisions any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre, for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

Sec. 1, Act March 3, 1873.

Sec. 2348. Pre-emption of Coal Lands.

Any person or association of persons severally qualified as above provided, who have opened and improved, or shall hereafter open and improve any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference-right of entry under the preceding section, of the mines so opened and improved: *Provided*, That when any association of not less than four persons, severally qualified as above provided, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.

Sec. 2, Act March 3, 1873.

Sec. 2349. Pre-emption of Coal Lands; when Claims to be Presented.

All claims under the preceding section must be presented to the register of the proper land district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing

of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; and where the improvements shall have been made prior to the expiration of three months from the third day of March, eighteen hundred and seventy-three, sixty days from the expiration of such three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this section shall be allowed until the expiration of six months from the third day of March, eighteen hundred and seventy-three.

Sec. 3, Act March 3, 1873.

Sec. 2350. Only One Entry Allowed.

The three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons, any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such section shall enter or hold any other lands under their provisions; and all persons claiming under section twenty-three hundred and forty-eight shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

Sec. 4, Act March 3, 1873.

Sec. 2351. Conflicting Claims.

In case of conflicting claims upon coal lands where the improvements shall be commenced after the third day of March, eighteen hundred and seventy-three, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference-right to purchase. And also where improvements have already been made prior to the third day of March, eighteen hundred and seventy-three, division of the land claimed may be made by legal subdivisions, to include as near as may be the valuable improvements of the respective parties. The commissioner of the general land-office is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and the four preceding sections.

Sec. 5, Act March 3, 1873.

Sec. 2352. Existing Rights.

Nothing in the five preceding sections shall be construed to destroy or impair any rights which may have attached prior to the third day of March, eighteen hundred and seventy-three, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

Sec. 6, Act March 3, 1873.

Sec. 2386. Title to Town Lots subject to Mineral Rights.

Where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession and the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes, as against the United States.

Sec. 2, Act March 3, 1865.

Sec. 2406. Geological Surveys.

There shall be no further geological survey by the government, unless hereafter authorized by law. The public surveys shall extend over all mineral lands; and all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of claimants; but nothing in this section contained shall require the survey of waste or useless lands.

Sec. 10, Act of July 9, 1870.

Sec. 2471. Penalty for the False Making or Altering of any Instrument or Writing Concerning Mineral Lands in California.

Every person who falsely makes, alters, forges, or counterfeits; or causes or procures to be falsely made, altered, forged or counterfeited; or willingly aids and assists in the false making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente, or part of an expediente, or any title paper, or evidence of right, title, or claim to lands, mines, or minerals in California, or any instrument of writing whatever in relation to lands, or mines, or minerals, in the State of California, for the purpose of setting up or establishing against the United States any claim, right or title to lands, mines or minerals within the State of California, or for the purpose of enabling any person to set up or establish any such claim; and every person who, for such purpose, utters or publishes as true and genuine any such false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title paper, evidence of right, title, or claim to lands, or mines, or

minerals in the State of California, or any instrument of writing whatever in relation to lands, or mines, or minerals in the State of California, shall be punishable by imprisonment at hard labor not less than three years and not more than ten years, and by a fine of not more than ten thousand dollars.

Sec. 1, Act May 18, 1858.

Sec. 2472. Penalty for Falsely Dating Evidence of Title under Mexican Authority, etc.

Every person who makes, or causes or procures to be made, or willingly aids and assists in making any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed patent, confirmation, diseño, map, expediente or part of an expediente, or any title paper, or written evidence of right, title, or claim, under Mexican authority, to any lands, mines, or minerals in the State of California, or any instrument of writing in relation to lands, or mines, or minerals, in the State of California, having a false date, or falsely purporting to be made by any Mexican officer or authority prior to the seventh day of July, eighteen hundred and forty-six, for the purpose of setting up or establishing any claim against the United States to lands, or mines, or minerals, within the State of California, or of enabling any person to set up or establish any such claim; and every person who signs his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession, or denouncement under Mexican authority, and during its existence in California, of lands, mines, or minerals, or falsely purporting to be an informe report, record, confirmation or other proceeding on application for a grant, concession, or denouncement under Mexican authority, during its existence in California, of lands, mines, or minerals, shall be punishable as prescribed in the preceding section.

Sec. 2, Act May 18, 1858.

Sec. 2473. Penalty for Presenting False Evidences of Title, etc.

Every person, who, for the purpose of setting up or establishing any claim against the United States to lands, mines, or minerals within the State of California, presents, or causes or procures to be presented, before any court, judge, commission, or commissioner, or other officer of the United States, any false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent diseño, map, expediente or part of an expediente, title paper, or written evidence of right, title, or claim to lands, minerals, or mines in the State of California, knowing the same to be false, forged,

altered, or counterfeited, or any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente, or part of an expediente, title paper, or written evidence of right, title, or claim to lands, mines, or minerals in California, knowing the same to be falsely dated; and every person who prosecutes in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines, or minerals in California, which claim is founded upon, or evidenced by, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente, or part of an expediente, title paper, or written evidence of right, title, or claim, which has been forged, altered, counterfeited, or falsely dated, knowing the same to be forged, altered, counterfeited, or falsely dated, shall be punishable as prescribed in section twenty-four hundred and seventy-one.

Sec. 3, Act May 18, 1858.

UNITED STATES STATUTES.

PREVIOUS TO THE REVISION.

Lead Mines in the Indiana Territory.

Section 5 provides that the lead mines in the Indiana territory were reserved for the future disposition of congress; but the President was authorized to lease the same. The law is obsolete.

U. S. Stats. 1807, Vol. 2, p. 449.

Sale of Lead Mines in Missouri.

The President is authorized to sell all lead mines in the State of Missouri, belonging to the United States, and unclaimed by individuals, in the same manner as other public lands are sold—six months' notice of such sale to be given, with brief descriptions of the lands offered for sale, quality of the ore, facilities for working it, etc. Confirmations or sales of lead mines to be the same as of other lands. Patent to be issued to the person in whose favor the confirmation has been made.

U. S. Stats. 1829, Vol. 4, p. 364.

Sale of Lead Mines in Illinois, Arkansas, Wisconsin and Iowa.

All the reserved lead mines and contiguous lands in Illinois, Arkansas, Wisconsin, and Iowa, to be exposed to sale; six months' public notice to be given of such sales, with a brief description of the lands offered for sale, etc.; the lands not subject to rights of pre-emption until they have been offered at public sale and subject to private entry. Any tract containing a mine or mines of lead ore to be sold in such legal subdivisions as will include such mine or mines. Leased subdivisions not to be sold until expiration of lease.

U. S. Stats. 1846, Vol. 9, p. 37.

Sale of Mineral Lands in Michigan and Wisconsin.

Section 1 establishes Lake Superior Land District.

Section 2 provides that a geological examination and survey of the lands in the district shall be made, and the manner in which the mineral lands shall be sold.

Section 3. All persons in actual occupancy, under lease from Secretary of War, may purchase to the extent of lease; but persons in actual occupancy for mining purposes, under permits, may purchase as those holding under lease. Other persons in actual possession of a mine discovered before the passage of the act, are permitted to enter and purchase one section of land, including the mine so discovered. Proof of possession and occupancy required to be made before the register and receiver of the land-office, subject to appeal to the Secretary of the Treasury. When two or more persons claim possession of the same section, the first occupant entitled to a preference, unless the same can be divided by legal subdivisions.

Section 4. Mineral lands offered for sale in quarter sections, no legal divisions of standing leases to be sold.

Section 5. Control and management of the mineral lands transferred from the war to the treasury department.

An Act to create an additional land district in the territory of Wisconsin, and for other purposes, approved March 3, 1847, was in all respects similar to the above.

U. S. Stats. 1847, Vol. 9, pp. 146, 179.

Reducing Price of Mineral Lands in Michigan and Wisconsin.

Section 1 provides that the mineral lands in Michigan and Wisconsin shall be offered for sale as other public lands—repeals such portions of the act of March 1, 1847 (*anté*), providing for sale of mineral lands in the state of Michigan; and of the act of March 3, 1847 (*ante*), relative to the sale of mineral lands in Wisconsin, inconsistent with the provisions of this act.

Section 2 provides that holders of a lease for more than one section, entitled on surrender of said lease to purchase one full section at the minimum price.

U. S. Stats. 1850, Vol. 9, p. 472.

For the prevention and punishment of frauds in land titles, in California. The provisions of this act are included in sections 2471, 2472, 2473, Revised Statutes, which see. U. S. Stats. 1858, Vol. 11, p. 290.

Mineral lands exempted from pre-emption and settlement upon unsurveyed lands in California. Settlers in townships may have a survey made, provided the land is not mineral or reserved by the government. U. S. Stats. 1862, Vol. 12, p. 410, Secs. 7, 10.

Settlers in townships not mineral or reserved, may have surveys made. (See Act to Establish a Land District in Nevada.) U. S. Stats. 1862, Vol. 12, p. 503, Sec. 3.

Disposal of Coal Lands, Etc., in the Public Domain.

SECTION 1. That where any tracts embracing coal-beds or coal-fields constituting portions of the public domain and which, as "mines," are excluded from the pre-emption act of 1841, and which, under past legislation, are not liable to ordinary private entry, it shall and may be lawful for the President to cause such tracts, in suitable legal subdivisions, to be offered at public sale to the highest bidder, after public notice of not less than three months, at a minimum price of twenty dollars per acre; and any lands not thus disposed of shall thereafter be liable to private entry at said minimum.

U. S. Stats. 1864, Vol. 13, p. 343.

Reservation of Mineral Lands, Etc.

Be it resolved, That no act passed at the first session of the Thirty-eighth Congress, granting lands to States or corporations to aid in the construction of roads or for other purposes, or to extend the time of grants heretofore made, shall be so construed as to embrace mineral lands, which in all cases shall be, and are, reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

U. S. Stats. 1865, Vol. 13, p. 567; Sec. 2346, R. S.

Disposal of Coal Lands in the Public Domain.

SECTION 1. That in the case of any citizen of the United States, who, at the passage of this act, may be in the business of bona fide actual coal-mining on the public lands, except on lands reserved by the President of the United States for public uses, for purposes of commerce, such citizen, upon making proof satisfactory to the register and receiver to that effect, shall have the right to enter, according to legal subdivisions, a quantity of land not exceeding one hundred and sixty acres, to embrace his improvements and mining premises, at the minimum price of twenty dollars per acre, fixed in the coal and town property act of first July, eighteen hundred and sixty-four; *provided*, that where the mining improvements and premises are on land surveyed at the passage of this act, a sworn declaratory statement descriptive of the tract and premises, showing, also, the extent and character of the improvements, shall be filed within six months from the date of this act; and proof and payment shall be made within one year from the date of such filing; but where such mining premises may be on lands hereafter to be surveyed, such declaratory statement shall be filed within three months from the return to the district land-office of the official township plat; and proof

and payment shall be made within one year from the date of such filing.

SEC. 2. * * * * *Provided further*, that where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession and the necessary use thereof: *Provided, however*, That nothing contained herein shall be so construed as to recognize any color of title in possessors for mining purposes, as against the government of the United States.

U. S. Stats. 1865, Vol. 13, p. 529; Sec. 2386, R. S.

Grant to A. Sutro, to Construct a Tunnel to the Comstock Lode.

SECTION 1. *Be it enacted, etc.*, That for the purpose of the construction of a deep draining and exploring tunnel to and beyond the "Comstock Lode," so called, in the State of Nevada, the right of way is hereby granted to A. Sutro, his heirs and assigns, to run, construct and excavate a mining, draining and exploring tunnel, also to sink mining, working, or air shafts along the line or course of said tunnel, and connecting with the same at any point which may hereafter be selected by the grantee herein, his heirs or assigns. The said tunnel shall be at least eight feet high and eight feet wide, and shall commence at some point to be selected by the grantee herein, his heirs or assigns, at the hills near Carson river, and within the boundaries of Lyon county, and extending from said initial point in a westerly direction seven miles, more or less, to and beyond said Comstock Lode; and the said right of way shall extend northerly and southerly on the course of said lode, either within the same, or east or west of the same; and also on or along any other lode which may be discovered or developed by the said tunnel.

SEC. 2. *And be it further enacted*, That the right is hereby granted to the said A. Sutro, his heirs and assigns, to purchase at one dollar and twenty-five cents per acre, a sufficient amount of public land near the mouth of said tunnel, for the use of the same, not exceeding two sections, and such land shall not be mineral land or in the bona fide possession of other persons who claim under any law of Congress at the time of the passage of this act, and all minerals existing or which shall be discovered therein are excepted from this grant; that upon filing a plat of said land the Secretary of the Interior shall withdraw the same from sale, and upon payment for the same a patent shall issue. And the said A. Sutro, his heirs and assigns, are hereby granted the right to purchase, at five dollars per acre, such mineral

veins and lodes, within two thousand feet on each side of said tunnel as shall be cut, discovered or developed by running and constructing the same, through its entire extent, with all the dips, spurs, and angles, of such lodes, subject, however, to the provisions of this act, and to such legislation as Congress may hereafter provide: *Provided*, That the Comstock Lode, with its dips, spurs, and angles, is excepted from this grant, and all other lodes, with their dips, spurs, and angles, located within the said two thousand feet, and which are or may be at the passage of this act, in the actual bona fide possession of other persons, are hereby excepted from such grant; and the lodes herein excepted, other than the Comstock Lode, shall be withheld from sale by the United States; and if such lodes shall be abandoned, or not worked, possessed and held in conformity to existing mining rules, or such regulations as have been or may be prescribed by the legislature of Nevada, they shall become subject to such right of purchase by the grantee herein, his heirs or assigns.

SEC. 3. *And be it further enacted*, That all persons, companies, or corporations, owning claims or mines on said Comstock Lode, or any other lode drained, benefited, or developed by said tunnel, shall hold their claims subject to the condition (which shall be expressed in any grant they may hereafter obtain from the United States) that they shall contribute and pay to the owners of said tunnel, the same rate of charges for draining or other benefits derived from said tunnel or its branches, as have been, or may hereafter be, named in agreement between such owners and the companies representing a majority of the estimated value of said Comstock Lode, at the time of the passage of this act.

U. S. Stats. 1866, Vol. 14, p. 242.

Right of Way to Ditch and Canal Owners.

SECTION 1. *Be it enacted, etc.*, That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local customs or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

U. S. Stats. 1866, Vol. 14, p. 251; Repealed by Sec. 9, Act of May 10, 1872; Sec. 2329, R. S.

SEC. 2. *And be it further enacted*, That whenever any person, or association of persons, claims a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar or copper, having previously occupied and improved the same

according to the local customs or rules of miners in the district where the same is situated, and having expended, in actual labor and improvements thereon, an amount of not less than one thousand dollars, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant, or association of claimants, to file in the local land-office a diagram of the same, so extended, laterally or otherwise, as to conform to the local laws, customs, and rules of miners, and to enter such tract and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

U. S. Stats. 1866, Vol. 14, p. 251; Repealed by Sec. 9, Act of May 10, 1872; Sec. 2325.

SEC. 3. *And be it further enacted*, That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land-office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of ninety days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the surveyor-general, upon application of the party, to survey the premises and make a plat thereof, indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and upon the payment to the proper officer of five dollars per acre, together with the cost of such survey, plat and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land-office shall transmit to the general land-office said plat, survey, and description; and a patent shall issue for the same thereupon. But said plat, survey or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

U. S. Stats. 1866, Vol. 14, p. 251; Repealed by Sec. 9, Act of May 10, 1872, Sec. 2325, R. S.

SEC. 4. *And be it further enacted*, That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the surveys to the limits of the premises according to the location and possession and plat aforesaid, and the surveyor-general may, in extending the surveys, vary the same from a rectangular form to suit the circumstances

of the country, and the local rules, laws, and customs of miners: *Provided*, That no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface for the convenient working of the same as fixed by local rules: *And provided, further*, That no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons.

Repealed by Sec. 9, Act of May 10, 1872; Sec. 2320, R. S.

SEC. 5. *And be it further enacted*, That as a further condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

Sec. 2338, R. S.

SEC. 6. *And be it further enacted*, That whenever any adverse claimants to any mine located and claimed as aforesaid shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until a final settlement and adjudication in the courts of competent jurisdiction of the rights of possession to such claim, when a patent may issue as in other cases.

Repealed by Sec. 9, Act of May 10, 1872; Sec. 2326, R. S.

SEC. 7. *And be it further enacted*, That the President of the United States be, and is hereby, authorized to establish additional land districts and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this act.

SEC. 8. *And be it further enacted*, That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

Sec. 2344, R. S.

SEC. 9. *And be it further enacted*, That whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decision of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for

the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed: *Provided, however,* That whenever, after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

Sec. 2339, R. S.

SEC. 10. *And be it further enacted,* That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty acres; or said parties may avail themselves of the provisions of the act of Congress approved May twenty, eighteen hundred and sixty-two, entitled "An Act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof.

Sec. 2341, R. S.

SEC. 11. *And be it further enacted,* That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

Sec. 2342, R. S.

Title to Valid Mining Claim.

The act of June 8, 1868, amending act of March 2, 1867, for the relief of the inhabitants of cities and towns upon the public lands: *Provided,* That no title under said act of March second, eighteen hundred and sixty-seven, shall be acquired to any valid mining claim or possession held under the existing laws of Congress.

U. S. Stats. 1868, Vol. 15, p. 67.

Right of Way to Ditch and Canal Owners.

Be it enacted, etc., That the act granting the right of way

to ditch and canal owners over the public lands, and for other purposes, approved July twenty-six, eighteen hundred and sixty-six, be, and the same is hereby amended by adding thereto the following additional sections, numbered twelve, thirteen, fourteen, fifteen, sixteen, and seventeen, respectively, which shall hereafter constitute and form a part of the aforesaid act.

SEC. 12. *And be it further enacted*, That claims, usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent under this act, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims: *Provided*, That where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands, no further survey or plat in such case being required, and the lands may be paid for at the rate of two dollars and fifty cents per acre: *Provided further*, That legal subdivisions of forty acres may be subdivided into ten-acre tracts; and that two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof: *And provided further*, That no location of a placer claim, hereafter made, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide pre-emption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

Secs. 2329, 2330, R. S.

SEC. 13. *And be it further enacted*, That where said person or association, they and their grantors, shall have held and worked their said claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this act, in the absence of any adverse claim: *Provided, however*, That nothing in this act shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

Sec. 2332, R. S.

SEC. 14. *And be it further enacted*, That all *ex parte* affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer author-

ized to administer oaths within the land district where the claims may be situated.

Sec. 2335, R. S.

SEC. 15. *And be it further enacted*, That registers and receivers shall receive the same fees for services under this act as are provided by law for like services under other acts of Congress; and that effect shall be given to the foregoing act according to such regulations as may be prescribed by the commissioner of the general land office.

SEC. 16. *And be it further enacted*, That so much of the act of March third, eighteen hundred and fifty-three, entitled "An Act to provide for the survey of the public lands in California, the granting of pre-emption rights, and for other purposes," as provides that none other than township lines shall be surveyed where the lands are mineral, is hereby repealed. And the public surveys are hereby extended over all such lands: *Provided*, That all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of the claimants: *And provided further*, That nothing herein contained shall require the survey of waste or useless lands.

Sec. 2331, R. S.

SEC. 17. *And be it further enacted*, That none of the rights conferred by sections five, eight, and nine of the act to which this act is amendatory shall be abrogated by this act, and the same are hereby extended to all public lands affected by this act; and all patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights as may have been acquired under or recognized by the ninth section of the act of which this act is amendatory. But nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the "Act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

U. S. Stats. 1870, Vol. 16, p. 217; Sec. 2340, R. S.

Development of the Mining Resources of the United States.

Be it enacted, etc., That all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United

States, and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners, in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Sec. 2319, R. S.

SEC. 2. That mining claims upon veins or lodes of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits heretofore located, shall be governed as to length along the vein or lode, by the customs, regulations, and laws in force at the date of their location. A mining claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited, by any mining regulations, to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end lines of each claim shall be parallel to each other.

Sec. 2320, R. S.

SEC. 3. That the locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists at the passage of this act, so long as they comply with the laws of the United States and the State, Territorial, and local regulations, not in conflict with said laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges, throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of said surface locations: *Provided*, That their right of possession to such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end-lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of said veins or ledges. *And, provided further*, That nothing in this section shall authorize the locator or possessor of a vein or lode which extends, in

its downward course, beyond the vertical lines of his claim, to enter upon the surface of a claim owned or possessed by another.

Sec. 2322, R. S.

SEC. 4. That where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel, on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of said tunnel.

Sec. 2323, R. S.

SEC. 5. That the miners of each mining district may make rules and regulations, not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims, located by reference to some natural object or permanent monument, as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act, ten dollars' worth of labor shall be performed or improvements made each year for each one hundred feet in length along the vein until a patent shall have been issued therefor; but where such claims are held in common such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made: *Provided*, That the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after such failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required by this act,

the co-owners who have performed the labor or made the improvement may, at the expiration of the year, give such delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication, such delinquent should fail or refuse to contribute his proportion to comply with this act, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

Sec. 2324, R. S.

This section was amended by act of June 6, 1874, and act of February 11, 1875. Sec. 2324 R. S.

SEC. 6. That a patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has, or have complied with the terms of this act, may file in the proper land-office an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted as aforesaid, and shall file a copy of said notice in such land-office, and shall thereupon be entitled to a patent for said land, in the manner following: The register of the land-office, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant, at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publica-

tion, the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during said period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land-office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act.

Sec. 2325, R. S.

SEC. 7. That where an adverse claim shall be filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land-office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the commissioner of the general land-office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it shall appear from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment-roll to the commissioner of the general land-office, as in the preceding case, and patents shall issue to the several parties according to their respect-

ive rights. Proof of citizenship under this act, or the acts of July twenty-sixth, eighteen hundred and sixty-six, and July ninth, eighteen hundred and seventy, in the case of an individual, may consist of his own affidavit thereof, and in case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief, and in case of a corporation organized under the laws of the United States, or of any State or Territory of the United States, by the filing of a certified copy of their charter or certificate of incorporation; and nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

Sec. 2326, R. S.

SEC. 8. That the description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued as aforesaid for claims upon unsurveyed lands, the surveyor-general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change location of any such patented claim.

Sec. 2327, R. S.

SEC. 9. That sections one, two, three, four, and six, of an act entitled "An Act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six, are hereby repealed, but such repeal shall not affect existing rights. Applications for patents for mining-claims now pending may be prosecuted to a final decision in the general land-office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this act; and all patents for mining claims heretofore issued under the act of July twenty-sixth, eighteen hundred and sixty-six, shall convey all the rights and privileges conferred by this act where no adverse rights exist at the time of the passage of this act.

Sec. 2328, R. S.

SEC. 10. That the act entitled "An Act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections six and seven of this act for obtaining patents to vein or lode claims; but where said placer claims shall be upon surveyed lands, and conform to legal subdivisions, no

further survey or plat shall be required, and all placer mining claims hereafter located shall conform as near as practicable with the United States system of public land surveys and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant, but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands: *Provided*, That proceedings now pending may be prosecuted to their final determination under existing laws; but the provisions of this act, when not in conflict with existing laws, shall apply to such cases: *And provided also*, That where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, said fractional portion of agricultural land may be entered by any party qualified by law, for homestead or pre-emption purposes.

Sec. 2331, R. S.

SEC. 11. That where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case (subject to the provisions of this act and the act entitled "An Act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy) a patent shall issue for the placer claim, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in the second section of this act, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim, shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

Sec. 2333, R. S.

SEC. 12. That the surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appoint-

ment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The commissioner of the general land office shall also have power to establish the maximum charges for surveys and publication of notices under this act; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by said applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land-office, which statement shall be transmitted, with the other papers in the case, to the commissioner of the general land-office. The fees of the register and the receiver shall be five dollars each for filing and acting upon each application for patent or adverse claim filed, and they shall be allowed the amount fixed by law for reducing testimony to writing, when done in the land-office, such fees and allowances to be paid by the respective parties; and no other fees shall be charged by them in such cases. Nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this act, or of the act entitled "An Act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six, nor shall this act affect any right acquired under said act; and nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the act entitled "An Act granting to A. Sutro the right of way, and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

Sec. 2334, R. S.

SEC. 13. That all affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer,

and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land-office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if said party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land-office as published to the location of such land; and the register shall require proof that such notice has been given.

Sec. 2335, R. S.

SEC. 14. That where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection: *provided, however*, That the subsequent location shall have the right of way through said space of intersection for the purposes of the convenient working of the said mine: *and provided also*, That where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

Sec. 2336, R. S.

SEC. 15. That where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable under this act to veins or lodes; *provided*, that no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this act for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill site, as provided in this section.

Sec. 2337, R. S.

SEC. 16. That all acts and parts of acts inconsistent herewith, are hereby repealed; *provided*, that nothing contained in this act shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws.

U. S. Stats. 1872, Vol. 17, p. 91.

In Relation to Mineral Lands.

That within the States hereinafter named deposits or mines of iron and coal be, and they are hereby excluded from the operations of an act entitled "An Act to promote the development of the mining resources of the United States," approved May tenth, eighteen hundred and seventy-two, and said act shall not apply to the mineral lands situate and being within the states of Michigan, Wisconsin, and Minnesota, and that said lands are hereby declared free and open to exploration and purchase, according to the legal subdivisions thereof, as before the passage of said act; and that any bona fide entries of such lands within said States, since the passage thereof, may be patented without reference to the provisions of said act.

U. S. Stats., 1873, vol. 17, p. 465; Sec. 2345, R. S.

Sale of Coal Lands of the United States.

That any person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land-office, have the right to enter by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

SEC. 2. That any person or association of persons severally qualified as above, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the foregoing provisions, of the mines so opened and improved; *provided*, that when any association of not less than four persons, severally qualified as in section one of this act, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter, not exceeding six hundred and forty acres, including such mining improvements.

SEC. 3. That all claims under section two of this act must be presented to the register of the proper land district within sixty days after the date of actual possession, and the commencement of improvements on the land, by the

filing of a declaratory statement therefor; *provided*, that when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; *and provided further*, that where the improvements shall have been made prior to the expiration of three months from the passage of this act, sixty days from the expiration of said three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this act shall be allowed until the expiration of six months from the date hereof.

SEC. 4. That this act shall be held to authorize only one entry by the same person or association of persons under its provisions; and no association of persons, any member of which shall have taken the benefit of this act either as an individual or as a member of any other association shall enter or hold any other lands under the provisions of this act; and no member of any association which shall have taken the benefit of this act shall enter or hold any other lands under its provisions; and all persons claiming under section two hereof, shall be required to prove their respective rights, and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

SEC. 5. That in case of conflicting claims upon lands where the improvements shall be hereafter commenced, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made at the date of the passage of this act, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties; and the commissioner of the general land-office shall be, and is hereby, authorized to issue all needful rules and regulations for carrying into effect the provisions of this act.

SEC. 6. That nothing in this act shall be construed to destroy or impair any rights which may have attached prior to its passage, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

U. S. Stats., 1873, vol. 17, p. 607.

Money Expended on Tunnels, deemed Expended on Lodes.

Be it enacted, etc., That section two thousand three hundred and twenty-four of the revised statutes, be, and the same is hereby, amended so that where a person or company has or may run a tunnel for the purposes of develop-

ing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act.

U. S. Stats., 1875, vol. 18, p. 315.

MINING STATUTES

OF THE

STATE OF CALIFORNIA.

Occupation of Land not over Mines.

SECTION 1. Any person now occupying and settled upon, or who may hereafter occupy and settle upon, any of the public lands belonging to the United States, unoccupied, except upon lands containing mines of any of the precious metals, may commence and maintain any action for interference with, or injuries done to his possession of said land, against any person or persons so interfering with or injuring such land or such possession.

Stats. 1850, p. 203.

This act was repealed by act of April 20, 1852, see page 49.

Regulation of the Mines and Foreign Miners.

Section 1. Certain persons not to mine without a license.

Section 2. Collector of licenses to be appointed.

Section 3. Collector to be commissioned.

Section 4. Licenses to be printed or engraved—Form of license—License to be countersigned.

Section 5. Licenses to be delivered to collector—his liability therefor.

Section 6. Amount to be paid for license.

Section 7. Persons requiring to be licensed and not taking out license, to be stopped from mining.

Section 8. Continuing to mine after being stopped, a misdemeanor.

Section 9. Licensed foreigner may work mines anywhere.

Section 10. Register of persons taking out licenses to be kept.

Section 11. Licenses to be indorsed and not to be transferable—Collector's compensation.

Section 12. Collectors to settle accounts every two months.

Section 13. Collector failing to perform his duty.

Section 14. Collectors—when to stop the issuing of licenses.

Section 15. Act to be printed and distributed, and published in newspapers.

Stats. 1850, p. 221.

This Act was repealed by Act of March 14, 1851.

Concerning Corporations.

Section 122. Persons desirous of forming a company may make and sign a certificate.

Section 123. On filing such certificate, body corporate to be formed.

Section 124. Business of company how managed, election of trustees.

Section 125. Election not made on day specified, may be made afterwards.

Section 126. Officers to be appointed.

Sections 127 and 128. Trustees to make calls and by-laws.

Section 129. Stock deemed personal property, when shares not transferable.

Section 130. Certified copy of certificate of incorporation, evidence.

Section 131. Certificate of amount of capital to be filed with county clerk.

Section 132. Company to report annually.

Section 133. Dividends to be declared only out of profits.

Section 134. Only money to be considered as payment of the capital stock.

Section 135. False certificate or report by officers renders them liable for all debts of the company contracted while officers thereof.

Sections 136 and 137. Executors, etc., holding stock as such not to be personally liable, but such executor may vote as a stockholder.

Section 138. Stockholders personally liable.

Section 139. Companies may alter amount of capital, or nature of business.

Section 140. Meeting to determine as to such alteration, how called, what consent necessary to change business or capital.

Section 141. Organization of meeting and proceedings thereat—business and capital changed.

Section 142. Trustees liable for debts exceeding capital.

Section 143. In what cases stockholder not personally liable.

Section 144. Alphabetical list of stockholders to be kept, list to be open to inspection. No transfer valid unless entered on list. List to be evidence.

Section 145. Penalty for refusing to make entry in, or to exhibit such list.

Stats. 1850, p. 365.

Proof Respecting Mining Claims.

SECTION 621 provides that "In actions respecting mining claims, proof shall be admitted of the customs, usages, or regulations established and in force at the bar or diggings embracing such claim; and such customs, usages, or regulations, when not in conflict with the Constitution and laws of this State, shall govern the decision of the action."

Stats. 1851, p. 149.

See Sec. 748, Code Civ. Proc.

Possessory Actions.

SECTION 1 provides that "Any person now occupying and settled upon, or who may hereafter occupy or settle upon any of the public lands in this State, for the purpose of cultivating or grazing the same, may commence and maintain any action for interference with or injuries done to his or her possessions of said land against any person or persons so interfering with or injuring such land or possession; *provided*, that if the lands so occupied and possessed contain mines of any of the precious metals, the possession or claim of the person or persons occupying the same for the purposes aforesaid, shall not preclude the working of such mines by any person or persons desiring so to do, as fully and unreservedly as they might or could do had no possession or claim been made for grazing or agricultural purposes."

Stats. 1852, p. 158.

Protection of Foreigners (Miners).

SECTION 1. That from and after the first day of June next, and until the Congress of the United States shall by law assume control of the mining lands of California, no person not being a citizen of the United States (California Indians excepted) shall be allowed to take gold from any of the mines of this State, unless he shall have a license therefor as hereinafter provided.

Section 2. Duty of State Controller, and form of license.

Section 3. Sheriff to act as collector; his bond.

Section 4. Duties of State Treasurer.

Section 5. Duties of County Recorder; his bond.

Section 6. Fixes amount of license.

Section 7. Duties of Recorder and Sheriff.

Section 8. Sheriff may appoint deputies.

Section 9. Appropriation of revenue under the Act.

Section 10. No foreign miner, who shall not have a license under the provisions of this act, shall be allowed either to prosecute or defend any action in any of the courts of this State.

Section 11. Settlement of County Treasurer.

Section 12. Returns of Sheriff and Recorder to be compared.

Sections 13 and 14. Embezzlement of officers; penalty of.

Section 15. Duty of Sheriffs.

Section 16. What deemed misdemeanor.

Section 17. Any person or company hiring foreigners to work in the mines of this State, shall be liable for the amount of the license for each person so employed, as provided in this act.

Section 18. Licenses to be printed in English, Spanish, and French.

Section 19. To take effect after June 1, 1852.

Stats. 1852, p. 84.

Repealed by Act of March 30, 1853, see page 50.

Protection of Foreign Miners.

SECTION 1. That from and after the passage of this act, no person, not being a citizen of the United States (California Indians excepted), shall be allowed to take gold from the mines of this State, unless he shall have a license therefor, as hereafter provided.

Sections 2 to 16 inclusive, provides the manner in which the tax shall be collected, the duties of the officers, etc.

Section 17. Any person or company hiring foreigners to work in the mines of this State, shall be liable for the amount of the license for each person so employed.

Section 18. Sheriff to appoint deputies, fees, bonds, etc.

Section 19. Gold dust received in payment for licenses.

Section 20. Repeals Act of 1852.

Stats. 1853, p. 62.

Repealed by Act of April 19, 1856, except Sec. 6 which was re-enacted.

Certificate of Incorporation and Contents.

SECTION 1. Corporations for manufacturing, mining, mechanical, or chemical purposes, or for the purpose of engaging in any species of trade or commerce, foreign or domestic, may be formed according to the provisions of this act; such corporations and the members thereof, being subject to all the conditions and liabilities herein imposed, and to none other.

Stats. 1855, p. 205.

Amended by Act of April 30, 1855, by inserting after "mechanical," the words "wharfing and dockage."

Section 2. Three or more persons to form a company; proceedings, certificates of incorporation, and contents.

Section 3. Copies of certificates to be evidence.

Section 4. Corporate powers under the act.

Section 5. Board of trustees, their duties and powers, how exercised, and when elected, vacancies how filled.

Section 6. Elections.

Section 7. Majority of trustees to form a quorum.

Section 8. Meetings and notices of.

Section 9. Capital stock and mode of transfer.

Section 10. Powers of trustees, payment of subscriptions, penalty for default, mode of sale.

Section 11. Agents shall represent stock held by them.

Section 12. Hypothecated stock.

Section 13. Duties of trustees, dividends, capital stock to be inviolate, penalty for violation of absent trustees, liability of those assenting, stock may be divided after payment of debts.

Section 14. Liabilities not to exceed capital stock, liabilities of those violating this section.

Section 15. Corporations under the act not to issue bills of credit.

Section 16. Stockholders to be individually responsible to the amount of stock held by them, how enforced.

Section 16. *As amended by Act of April 27, 1863.*—Stats. 1863, p. 736. Each stockholder shall be individually and personally liable for his proportion of all the debts and liabilities of the company, contracted or incurred during the time that he was a stockholder, for the recovery of which, joint or several actions may be instituted and prosecuted. In any such action, whether joint or several, it shall be competent for the defendant or defendants, or any or either of them, on the trial of the same to offer evidence of the payment, by him or them, or any or either of them, of any debts or liabilities of such corporations, and, upon proof of such payment, the same shall be taken into account and credited to the party or parties making such payment, and judgment shall not be rendered against the party or parties defendant proving such payment for a sum exceeding the amount of his or their proportion of the debts and liabilities of such incorporations, after deducting therefrom the sums proven to have been paid by him, them, or any or either of them, on account thereof.

Section 17. Agents of stockholders not responsible, owners of hypothecated stock responsible.

Section 18. Records of corporations under the act, to be open for inspection, extracts may be made, when made evidence.

Section 19. Duty of recording clerk, and penalty for violation.

Section 20. Capital stock may be increased or diminished.

Sections 21 and 22. Mode of proceeding.

Section 23. Dissolution of corporations under the act.

Section 24. Mode of proceeding. Notice, if to be advertised.

Section 25. Repeals chapter five of act concerning corporations, passed April 22, 1850. Construction of the repeal.

Section 26. Corporations formed under previous acts may continue under this act; proceeding.

Section 27. Corporations under this act not subject to act of 1850.

Stats. 1853, p. 87.

Determining Right to Mining Claim.

Subdivision 10, of Sec. 67 of Chap. VIII, relative to jurisdiction of Justices' Courts (except San Francisco), reads as follows:

10. Of an action to determine the right to a "mining claim."

Amended by Act of April 19, 1856 (Stats. 1856, 133), as follows:

10. Of an action to determine the right to a mining claim, and for damages for injury to the same, when the damages claimed do not exceed two hundred dollars.

Stats. 1853, p. 298.

See Sec. 114, Code Civ. Proc.

Foreigners not allowed to mine without license.

SECTION 1. No person not being a citizen of the United States, or who shall not have declared his intention to become such, prior to the passage of this act (California Indians excepted), shall be allowed to take gold from the mines of this state, unless he shall have a license therefor, as hereinafter provided.

Stats. 1854, p. 55.

Amended March 5, 1857, in exactly the same language as the above.

Actions concerning Mining Claims.

SECTION 63. In actions respecting mining claims in a justice's court, the justice shall have power, upon application of the plaintiff, after notice to the adverse party, to appoint a receiver of the proceeds of the claim, pending the action. If the parties agree upon a person, he shall be appointed such receiver. If the parties do not agree, the justice shall appoint as such receiver some suitable person who is disinterested in the action between the parties.

Amended by Act of April 28, 1855; see page 53.

SEC. 64. The receiver mentioned in the last section shall keep an accurate account of all the proceeds of the claim pending action, and of all amounts paid out for working the same, and shall retain the proceeds and pay the same over pursuant to the order of the court. The receiver shall also be required, on demand of either party, to give security for the faithful performance of his trust, and shall be allowed for the same a reasonable compensation, to be paid out of the proceeds of the claim in his hands, but in no case exceeding ten per cent. upon such proceeds.

Stats. 1854, p. 71.

Growing Crops not to be Injured by Miners.

SECTION 1. No person shall for mining purposes destroy or injure any growing crops of grain or garden vegetables growing upon the mineral lands of this State, nor undermine or injure any house, building improvement, or fruit trees standing upon mineral lands and the property of another, except as hereinafter provided.

SEC. 2. Whenever any person for mining purposes shall desire to occupy or use any mineral lands of this State, then occupied by such growing crops of grain, garden vegetables, fruit trees, houses, buildings or other improvements, property of another, such person shall first give bond to the owner of the growing crop, building, fruit trees or other improvement, to be approved by a justice of the peace of the township, with two or more sufficient sureties, in a sum to be fixed by three disinterested citizens, householders of the township, one to be selected by the obligor, one by the obligee, and one by a justice of the peace of the township, conditional that the obligor shall pay to the obligee any and all damages which said obligee may sustain in consequence of the destruction by the obligor, or those in his employ, of the growing crops, fruit trees, improvements or buildings of the obligee: *provided*, that the word improvements in this act shall be construed to mean any superstructure on said farm, ranch or garden, and nothing more.

SEC. 3. If any person or persons shall violate the provisions of the first and second sections of this act, he or they shall be deemed guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be fined in a sum not exceeding two hundred dollars nor less than fifty dollars, or by imprisonment in the county jail of said county not exceeding three months, either or both, at the discretion of the court; *provided*, nothing in this act shall prevent miners from working any

mineral lands in the State after the growing crops on the same are harvested.

Stats. 1855, p. 145.

See Sec. 604, Penal Code.

Actions Respecting Mining Claims.

SECTION 63. In actions respecting miners' claims in a justice's court, the justice shall have power upon application of the party out of possession of the claim or claims, after notice of one day to the adverse party, to appoint a receiver of the proceeds of the claim pending the action. If the parties agree upon a person, he shall be appointed such receiver; if the parties do not agree, the justice shall appoint a receiver, who shall take an oath, which shall be filed with the justice, that he is not interested in the action between the parties, and that he will honestly keep an account of all gold dust, or metals of any kind, the proceeds of the claim or claims in dispute. After the appointment of such receiver, the justice shall have power to issue a written order to any sheriff or constable to put such receiver into possession of such claim, which order said sheriff or constable shall execute, and the receiver shall remain in possession of the claim or claims so long as said action may remain undetermined in any court. The court in which the action may be pending shall have authority, upon application of either party with two days' notice to the other, from time to time, to make such orders for the disposition of the proceeds of such claim or claims for the safety of the same as may seem proper. The court in which the action may be pending shall also have power, upon application of the receiver based upon his affidavit, to punish as for contempt all persons who have been guilty of disturbing the receiver in the possession of the claims.

Stats. 1855, p. 199.

See Secs. 564-569, Code Civ. Proc.

Mining License of Foreigners.

Section 6 is amended, providing for licenses to be paid by foreigners, and classifies those who may become citizens from those who cannot; and further provides that no foreigners shall be entitled to hold or work in any mining claim, unless he pays his monthly tax, as herein provided for.

The Act of March 30, 1853, and the above section, was repealed by Act of April 19, 1856, which re-enacted section 6 of the Act of 1853, providing the amount to be paid for each license shall be at the rate of four dollars per month, and said license shall in no case be transferable.

Stats. 1855, p. 216.

Liens.

SECTION 1. An act entitled "An act for securing liens to mechanics and others, passed April 19, 1856," shall be and is hereby extended, so as to include in its provisions bridges, ditches, flumes or aqueducts to create hydraulic power, or for mining purposes; and all master-builders, mechanics, lumber-merchants, contractors, journeymen or laborers, and all other persons performing labor, or furnishing materials for, or employed in the construction or repair of any bridge, ditch, flume or aqueduct aforesaid, shall have the same lien, subject to the same provisions and regulations, as in and by said act are provided for liens upon buildings, wharves, and other superstructures.

Stats. 1857, p. 84.

Repealed by General Lien Law, passed April 26, 1862. Stats. 1862, p. 384, which was in turn repealed by General Lien Law of March 30, 1868. Stats. 1867-8, 589.

See Chapters II and III, of Title IV, Part III, Code Civ. Proc.

Corporations.

SECTION 1. It shall be the duty of the trustees of every company incorporated under this act for the purpose of ditching, mining, or conveying water for mining purposes, to cause a book to be kept, containing the names of all persons, alphabetically arranged, who are, or shall become stockholders of the corporation, and showing the number and designation of shares of stock held by them respectively, and the time when they respectively became the owners of such shares; also a book or books, in which shall be entered at length, in a plain and simple manner, all by-laws, orders, and resolutions of the company and board of trustees, and the manner and time of their adoption; which books, during the business hours of the day, Sundays and Fourth of July excepted, shall be open for the inspection of stockholders and the creditors of the company, each individual stockholder, and their duly authorized agents and attorneys, at the office or principal place of business of the company; *provided*, that the office and books of every such company shall be kept, and the books of the company shall be open, as aforesaid, in the county in which their business is transacted, and every stockholder or creditor, as aforesaid, or their agents or attorneys, shall have the right to make extracts from such books, or upon payment of reasonable clerk-fees therefor, to demand and receive from the clerk or other officer having the charge of such books, a certified copy of any entry made therein; such book or certified copy of any entry, shall be presumptive evidence of the facts therein stated, in any action or proceeding against the company, or any one or more stockholders.

SEC. 2. If the clerk or other officer having charge of such book, shall make any false entry, or neglect to make any proper entry therein, or shall refuse or neglect to exhibit the same, or allow the same to be inspected, or extracts to be taken therefrom, or to give a certified copy of any entry therein, as provided in the preceding section, he shall be deemed guilty of a misdemeanor, and shall forfeit and pay to the party injured a penalty of two hundred and one dollars, and all damages resulting therefrom, to be recovered in any court of competent jurisdiction in this State; and for neglect to keep such book for inspection, and at the place provided for in last section, the corporation shall forfeit to the people of the State of California the sum of two hundred and one dollars for every day they shall so neglect; to be sued for and recovered before any court of competent jurisdiction in the county in which the principal business of such company is transacted; and it shall be the duty of the district attorney within and for such county to prosecute such action, in the name of and for the benefit of the people of the State of California. And it is further provided, that in case any such incorporated company shall refuse or neglect, for the space of one full year after the passage of this act, to comply with the provisions of this and the preceding section, then, upon the showing of such facts, by petition of any person aggrieved thereby, and due proof thereof, before the county judge of the county in which such company's principal business is transacted, after such company shall have been duly notified thereof, by summons, to be issued by said judge, citing such company to appear before such judge, at a time and place therein mentioned, which shall not be less than ten nor more than thirty days from the date of such summons, such company shall, by said judge, be declared and decreed to be disincorporated, so far as to deprive said company of all the privileges of this act, but in no manner to affect the remedy of all persons against such company, to be exercised as this act provides; *provided*, that nothing contained in the provisions of this section, concerning the disincorporating of such companies, shall be so construed as to prevent the enforcement of the other remedies in this section mentioned, at any time after the passage of this act, except as herein provided.

Stat. 1857, p. 121.

Supplementary to Act of April 14, 1853; see page 50.

Corporations.

SECTION 1. That section one of an act entitled "An act to provide for the formation of corporations for certain purposes," passed April 14, 1853, be and the same is hereby amended so as to read as follows:

Section One. Corporations for manufacturing, mining, mechanical, wharfing and dockage, chemical, or agricultural purposes, or for the purpose of engaging in any species of trade or commerce, foreign or domestic, may be formed according to the provisions of this act; such corporations and members thereof being subject to all the conditions and liabilities herein imposed, and to none others; *Provided*, that nothing in this section shall be so construed as to authorize a company formed under it to own or hold possession of more than fourteen hundred and forty acres of land, or to authorize an individual member of such company or association, in his corporate capacity, to hold, own, or possess a number of acres to exceed eighty; And *provided further*, that no corporation formed under the provisions of said act of April 14, 1853, except those formed for agricultural purposes, shall own or hold possession of more real estate than shall be actually necessary for the prosecution of the business for which it was incorporated; And *provided, further*, that no corporations formed for agricultural purposes, shall be allowed to hold any mineral lands under the provisions of this act.

SEC. 2. *Provided* that no contract valid in law, or right sacred in equity, shall be impaired by the retroactive force of this section; *Provided*, that nothing in this section shall be so construed as to authorize a company formed under it to own or hold possession of more than fourteen hundred and forty acres of land.

Stat. 1853, p. 133.

Mining Licenses for Foreigners.

SECTION 1. No person not a citizen of the United States, or who shall not have declared his intention to become such prior to the passage of this act, according to law (California Indians excepted), shall be allowed to take gold from the mines of this State, or hold a mining claim therein, unless he shall first procure and pay a license therefor, as herein-after provided.

SEC. 2. Any person or company hiring foreigners, or interested with them as partners, or renting, or on shares, or in any manner connected with any foreigner, or foreigners, in working or in possession of any mining ground in this State, shall be held liable for the amount of license of each and every foreigner with whom such person, or company, is so connected, or interested. All mining ground, worked or possessed—all improvements, all tools, and machinery, used in working such ground, by said person or company, shall be subject to sale for the payment of said license tax, in the manner provided in section seven of this act. The

collector shall have power to require any person, or company, believed to be indebted to, or to have money, gold-dust, or property of any kind, belonging to, or in which any such foreigner is interested, in his or their possession, or under his or their control, to answer, under oath, as to such indebtedness, or the possession of such money, gold-dust, or other property. In case a party is indebted, or has possession or control of any moneys, gold-dust, or other property, as aforesaid, of such foreigner, or foreigners, he may collect from such party the amount of such license, and may require the delivery of such money, gold-dust, or property, as aforesaid; and in all cases the receipt of the collector to said party shall be a complete bar to any demand made against such party, or his legal representative, for the amounts of money, gold-dust, or property, embraced therein. Any person or company, hiring foreigners to work in the mines of this State, shall be liable for the amount of the licenses for each person so employed.

Stat. 1858, p. 302.

The act of April 19, 1856, repealed the above acts, with the exception of section 6 of the act of 1853, which was re-enacted. No notice seems to have been taken of this blunder in legislation, as far as I have been able to discover.

Corporations.

SECTION 1. Section 2 of Act of April 14, 1853, is amended as follows: Sec. 2. Any three or more persons who may desire to form a company for any one or more of the purposes specified in the preceding section, may make, sign, and acknowledge, before some officer competent to take the acknowledgment of deeds, and file in the office of the county clerk of the county in which the principal place of business of the company is intended to be located, and a certified copy thereof, under the hand of the clerk and seal of the county court of said county, in the office of the Secretary of State, a certificate in writing, in which shall be stated the corporate name of the company, the objects for which the company shall be formed, the amount of its capital stock, the time of its existence, not to exceed fifty years, the number of shares of which the stock shall consist, the number of trustees and their names, who shall manage the concerns of the company for the first three months, and the names of the city, or town, and county, in which the principal place of business of the company is to be located.

SEC. 2. All corporations heretofore formed under the provisions of the act of which this is amendatory, who have filed a certified copy of the certificate in writing, required to be executed in the first section of this act, in the office of the Secretary of State, shall, to all intents and purposes,

be as legally incorporated as though a duplicate thereof had been filed in the office of the said Secretary of State, and all acts heretofore done by such companies, under their corporate name, in conformity to the laws governing corporations in this State, are hereby made lawful acts.

Stats. 1859, p. 93.

Conveyance of Mining Claims.

SECTION 1. Conveyances of mining claims may be evidenced by bills of sale or instruments in writing not under seal, signed by the person from whom the estate or interest is intended to pass, in the presence of one or more attesting witnesses; and also all conveyances of mining claims heretofore made by bills of sale or instruments in writing, not under seal, shall have the same force and effect as *prima facie* evidence of sale, as if such conveyances had been made by deed under seal; *provided*, that nothing in this act shall be construed to interfere with or repeal any lawful local rules, regulations, or customs of the mines in the several mining districts of this State; *and provided*, further, every such bill of sale or instrument in writing shall be deemed and held to be fraudulent and void as against all persons except the parties thereto, unless such bill of sale or instrument in writing be accompanied by an immediate delivery to the purchaser of the possession of the mining claim or claims therein described, and be followed by an actual and continued change of the possession thereof, or unless such bill of sale or instrument in writing shall be acknowledged and recorded as required by law in the case of conveyances of real estate.

SEC. 2. This act shall apply to gold mining claims only.

This section was repealed by act of March 20, 1868.

Stats. 1860, p. 175.

Corporations Organized in this State and Mining outside thereof.

SECTION 1. That it may be lawful for any corporation organized in this State, under the laws of this State, for the purpose of mining, or carrying on mining operations without this State, whose business office is in this State, to levy assessments upon the capital stock thereof to pay the debts, future or present, of said corporation, or to carry on the business of said corporation; *provided*, the same shall be equal and uniform, and at no one time exceed five per cent. of the capital stock, and such levy, or assessment, shall constitute a valid and binding obligation upon the holders of such stock to pay the sum so assessed against the stock so held. Notice of each such call, or assessment, shall be given to the respective stockholders personally, or

shall be published once a week for at least four weeks in some newspaper published at the place designated as the principal place of business of the corporation, and also in some newspaper published nearest to the point where said mining operations are being carried on. If, after such notice has been given, any stockholder shall make default in the payment of such call, or assessment, as to the shares of stock held by him, so many of such shares may be sold as will be necessary for the payment of the call, or assessment, on the shares held by him. The sale of said shares shall be made as prescribed in the by-laws of the company; *provided*, that no sale shall be made except at public auction to the highest bidder, after a published notice of thirty days, published as above directed; and that at such sale the person who will agree to pay the call, or assessment, so due, together with the expense of advertisement and the other expenses of the sale for the smallest number of whole shares, shall be deemed the highest bidder.

Stats. 1861, p. 41.

See act of 1863-4, questionable if this act was not repealed by it.

Foreign Miners.

SECTION 90. No person, unless he is a citizen of the United States, or shall have declared his intention to become such (California Indians excepted), shall be allowed to take, or extract, gold, silver, or other metals from the mines of this State, or hold a mining claim therein unless he shall have a license therefor as hereinafter provided.

SEC. 92. * * The amount to be paid for such licenses shall be at the rate of four dollars per month; and said licenses shall in no case be transferred. * *

SEC. 93. The collector shall collect the foreign miners' license tax provided for in this act, from all persons liable to pay the same, and may seize the property of any such person refusing to pay such tax, and sell the same at public auction on one hour's notice by proclamation, and shall deliver the property to the purchaser, together with a bill of sale, with the license attached, which shall transfer the title thereof to the person paying the highest price therefor, and after deducting the tax and necessary expenses incurred by reason of such refusal and sale of property, the collector shall return the surplus of the proceeds of the sale, if any, to the person or persons whose property was sold; *provided*, that should any person, liable to pay such tax in any county of this State, escape into any other county with the intention to evade the payment of such tax, then, and in that event, it shall be lawful for the collector to pursue such person and enforce the payment of such tax in the same

manner as if no such escape had been made. Any foreigner representing himself to be a citizen of the United States shall, in the absence of his certificate to that effect, satisfy the collector of the correctness of his statement by affidavit or otherwise, and for that purpose the collector is empowered to administer such oath or affirmation. All foreigners not eligible to become citizens of the United States, residing in any mining district in this State, shall be considered miners under the provisions of this act. Every subsequent license, after the first, when issued to the same person shall be dated from the expiration of the former license.

SEC. 97. Any person or company hiring foreigners, or interested with them as partners, or renting, or on shares, or in any manner connected with any foreigner or foreigners in working, or in possession of, any mining ground in this State, shall be held liable for the amount of license of each and every foreigner with whom such person or company is so connected or interested. All mining ground worked or possessed, all improvements, all tools and machinery used in working such ground by said person or company, shall be subject to sale for the payment of said license tax in the manner provided in section ninety-three of this act. The collector shall have power to require any person or company believed to be indebted to, or to have money, gold dust, or property of any kind belonging to any foreigner, or in which any foreigner is interested, in his or their possession, or under his or their control, to answer under oath as to such indebtedness, or the possession of such money, gold dust, or other property. In case a party is indebted, or has possession or control of any moneys, gold dust, or other property, as aforesaid, of such foreigner or foreigners, he may collect from such party the amount of such license, and may require the delivery of such money, gold dust, or other property as aforesaid, and in all cases the receipt of the collector to said party shall be a complete bar to any demand made against said party, or his legal representative, for the amounts of money, gold dust, or property embraced therein; and *provided*, that whenever, from any cause whatever, the collector shall be unable to collect the foreign miners' license from any person liable to pay the same, he shall certify to the road overseer of the district the name or description of the person and the amount due, and such person shall, upon the requisition of the overseer, work upon the public roads of the district a sufficient number of days to exhaust said sum by crediting against it one dollar for each day's work, and every person so liable to work, and refusing so to do, shall be guilty of a misdemeanor, and, upon con-

viction, shall be punished by imprisonment for not less than five and not more than thirty days.

SEC. 98. Any person or company hiring foreigners to work in the mines of this State, shall be liable for the amount of the license for each person so employed.

Stats. 1861, p. 447.

Canal Companies.

SECTION 1. Corporations may be formed under the provisions of an act entitled "An Act to provide for the formation of corporations for certain purposes," passed April 14, 1853, and the several acts amendatory thereof and supplemental thereto, for the following purposes: The construction of canals for the transportation of passengers and freights, or for the purpose of irrigation or water power, or for the conveyance of water for mining or manufacturing purposes, or for all of such purposes.

SEC. 2. The right is hereby granted to any company, organized under the authority of this act, to construct all works necessary to the objects of the company, to make all surveys necessary to the selection of the best site for the works, and of the lands required therefor, and to acquire all lands or waters not previously appropriated, and other property necessary to the proper construction, use, supply, maintenance, repairs, and improvements of the works, in the manner and by the mode of proceedings prescribed in an act entitled "An Act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto," passed May 20, 1861. (For the railroad act hereby referred to see Stats. of 1861, p. 607; Stats. 1862, p. 547; Stats. 1863, p. 610.)

SEC. 3. Every company organized as aforesaid shall have power, and the same is hereby granted, to make rules and regulations for the management and preservation of their works not inconsistent with the laws of this State, and for the use and distribution of the waters and the navigation of the canals, and to establish, collect, and receive rates, water rents, or tolls, which shall be subject to regulation by the board of supervisors of the county or counties in which the work is situated, but which shall not be reduced by the supervisors so low as to yield to the stockholders less than one and one-half per cent. per month upon the capital actually invested.

SEC. 4. Every company organized under the authority of this act shall construct and keep in good repair, at all times, for public use, across their canal, all of the bridges that the board of supervisors of the county or counties in which such canal is situated shall require; said bridges being on

the lines of public highways, and necessary for public use in connection with such highways.

SEC. 5. The provisions of this act shall not apply to the counties of Nevada, Placer, Amador, Sierra, Klamath, Del Norte, Trinity, Butte, Plumas, Calaveras, and Tuolumne.

Stats. 1862, p. 540.

Amended February 3, 1866, by omitting Tuolumne in last section. Stats. 1865-6, 53. Amended March 31, 1866, by omitting Placer in last section. Stats. 1865-6, 604. Amended March 12, 1868, by omitting Butte and inserting Tuolumne and Lassen. Stats. 1867-8, p. 134.

See act of April 2, 1870, on incorporation of canal, etc., companies; see page 80.

Liabilities of Stockholders.

SECTION 1 amends section 32 of the Corporation Act of April 22, 1850, as follows: Section 32. Each stockholder of any corporation shall be severally, individually, and personally, liable for such proportion of all its debts and liabilities as the amount of stock owned by him in such corporation bears to the whole of the capital stock of the corporation, for the recovery of which joint or several actions may be instituted and prosecuted, and in any such action against any of the stockholders of a corporation, the court shall ascertain and determine the proportion of the debt which is the subject of the suit for which each of the stockholders who are defendants in the action are severally liable, and judgment shall be given severally in conformity therewith. If any stockholder in a corporation shall pay his proportion of any debt due by such corporation, he shall be released and discharged from any further individual or personal liability for such debt.

Stats. 1863, p. 766.

See Sec. 322, Civ. Code.

Changing Place of Business of Mining Companies or Corporations.

SECTION 1. Any mining company or corporation lawfully organized and incorporated for mining purposes within the State of California may change its office or principal place of business by first obtaining the consent in writing of the stockholders representing two-thirds of all the capital stock of the company; *provided*, that notice of such intended change, after such consent shall have been obtained, shall be inserted for thirty days in some newspaper published at or nearest the principal place of business of said mining company or corporation, designating the county, or city and county, to which it is intended to remove, before such removal shall be deemed lawful.

SEC. 2. Any mining company or corporation availing itself of the privileges of this act, upon filing in the office of the

county clerk of the county or city and county, to which a removal is intended to be made, a certified copy of its articles of incorporation, together with a certificate of the trustees of the company or corporation, under the seal thereof, that the requirements of section one of this act have been fulfilled, shall, from the time of such filing, be vested with all the powers in its new place of business, which it might or could have exercised if originally incorporated in the county to which its office or principal place of business shall be removed.

SEC. 3: This act shall not be so construed as to authorize any mining company or corporation to remove its office or principal place of business out of the State.

SEC. 4. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Stats. 1863-4, p. 76.

See Sec. 321, Civ. Code.

Limitation of Actions.

SECTION 1. No action for the recovery of property in mining claims, or for the recovery of the possession thereof, shall be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seised or possessed of the premises in question within two years before the commencement of this action.

SEC. 2. No cause of action or defense to an action founded upon the title to property in mining claims, or to the rents or profits out of the same, shall be effectual unless it appear that the person prosecuting the action or making the defense, or under whose title the action is prosecuted or the defense is made, or the ancestor, predecessor, or grantor of such person was seised or possessed of the premises in question within two years before the commencement of the act in respect to which such action is prosecuted or defense made.

Stats. 1863-4, p. 91.

See Secs. 320 and 321, Code Civ. Proc.

An Act concerning assessments upon the stock of corporations. Approved April 4, 1864.

Stats. 1863-4, p. 402.

This Act was repealed by an Act of same title approved March 26, 1866; see page 69. Its changes were so few we deemed it unnecessary to reprint it twice.

Transfer Agencies of Mining Corporations.

SECTION 1. That it may be lawful for any corporation organized in this State for the purpose of mining, or carrying on mining operations in or without this State, to establish and maintain agencies in other States of the

United States for the transfer and issuance of their stock, and a transfer or issuance of [the] same at any such transfer agency, in accordance with the provisions of this statute, shall be valid and binding, and as fully and effectually so, for all purposes, as if made upon the books of such corporation at its principal office within this State.

SEC. 2. All stock of any such corporation issued at any such transfer agency, shall be signed by the president and secretary of the corporation, and countersigned at the time of its issuance by the agent or agents of such corporation having the charge of such transfer agency; and no stock shall be issued at such transfer agency, unless the certificate or certificates of stock in lieu of which the same is issued, shall, at the time of such issuance, be surrendered for cancellation.

SEC. 3. The stockholders of any such corporation may pass by-laws for the regulation and conduct of any such transfer agency; *provided*, the same be not inconsistent with the provisions of this act; and such transfer agency shall at all times be subject to the control of the trustees of said corporation.

SEC. 4. All acts, or parts of acts, inconsistent herewith are hereby repealed.

Stats. 1863-4, p. 429.

See Secs. 586 and 587, Civ. Code.

Taxation.

SECTION 1. All provisions of law exempting mining claims from taxation are hereby repealed, so far as they apply to lands or mines in the condition of private property and granted as such by the Spanish or Mexican Government, or the Government of the United States, or of this State.

Stats. 1863-4, p. 471.

See Secs. 3617, Pol. Code.

Partnerships for Mining Purposes.

SECTION 1. All written contracts of copartnership for mining purposes upon the lands of the United States within this State, formed by two or more persons, shall be subject to the conditions and liabilities prescribed by this act.

SEC. 2. Any member of a copartnership, or his successor in interest, in any mining claim, who shall neglect or refuse to pay any assessment, or shall neglect to perform any labor or other liability incurred by the copartnership agreement, may, after the expiration of sixty days after such assessment, labor, or other liability has become due, be notified in writing by any remaining partner or partners, or by his or their agents, that such assessment, labor, or liability is due, which written notice shall specify the name

of such mine and the district wherein it is located, and shall particularly mention the liability which has been incurred; and if such delinquent reside within the State, he shall be personally served with such notice; and if the person so notified shall refuse or neglect, for thirty days after service of such written notice, to comply with the requirements of the copartnership agreement, the remaining partner or partners may sell the interest of such delinquent partner in and to such mining claim.

SEC. 3. All sales under the provisions of this act shall be at public auction and by giving five days' notice thereof, by posting written notices in three public places within the mining district where such mine is located. The notice shall also specify the extent of the interest to be sold, and the name of the delinquent partner or partners, and the time and place of such sale, which place shall be within the district where the mine is located. The purchaser at such sale shall acquire all the rights and title of the delinquent partner.

SEC. 4. If any delinquent partner in any mine is absent from the State, or resides in any other State or Territory, the notice to such delinquent shall be by publication once a week for four months in some newspaper published in the county where the mine is located; or, if there be no newspaper in the county, then such notice shall be published in some newspaper in an adjoining county. After the expiration of the time of such publication, the interest of such delinquent shall be sold, in the manner prescribed in section third of this act.

Stats. 1863-4, p. 478.

Repealed by Act of April 2, 1863; see page 73.

Unadulterated Quicksilver.

SECTION 1. Every company or person, within this State, engaged in the production of quicksilver, by mining, for the purposes of sale, and every firm, company, or person importing into this State quicksilver for the purpose of sale, shall cause to be prepared a metallic stamp, of such form and character as may enable such company or person to impress upon wax or other plastic material the seal hereinafter provided. Such stamp shall be so constructed that either by characters engraved upon the same, or movable types and dies connected therewith, there may be impressed a seal, showing:

First. The name of the company, firm, or person producing or importing the quicksilver;

Second. The date at which such seal is applied to each tank or vessel of quicksilver;

Third. The amount of quicksilver contained in such tank or vessel.

SEC. 2. Before any tank of quicksilver shall leave the works of any mining company engaged in the production of the same for sale, or the warehouse of any firm, or person, importing such quicksilver for sale, such company, firm, or person, shall cause a seal of wax, or other plastic material adapted to the purpose to be applied to the tap, plug, or orifice, through which such tank is filled, and in such manner that such tap or plug cannot be removed or disturbed, or such orifice opened without breaking or displacing such seal. Such seal, when thus applied, shall be impressed with the stamp above provided, in such manner that such seal shall exhibit plainly all the characters required of such stamp.

SEC. 3. Any person who shall forge or falsely fabricate the stamp or seal of any company, firm, or person, as herein provided, or attach the same to any tank or vessel of quicksilver, shall be deemed guilty of forgery, and, upon conviction, shall be punished by imprisonment in the State Prison for the period of not less than one nor more than five years.

SEC. 4. Any person who shall willfully and knowingly adulterate and debase any quicksilver designed for sale, or that may hereafter be offered for sale, by mixing with such quicksilver any lead, antimony, or other base metal, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in a sum not exceeding one thousand dollars, or imprisonment in the county jail not exceeding one year, or both such fine and imprisonment.

SEC. 5. Any vendor of quicksilver, who shall vend or sell to any person any quicksilver debased or adulterated by mixture with the same of any lead, antimony, or other base metals, shall be liable to the purchaser of such quicksilver for all the damages and injury sustained from such debasement, to be recovered by such purchaser in a civil action. And such damages, when ascertained by the court, or jury, shall be at once quadrupled by the court, or by the clerk, by order of the court, and judgment for four times the damages proven shall be entered in favor of the plaintiff and against such defendant; *provided*, that nothing contained in this section shall be taken to apply to any person selling quicksilver that has been already employed in mining or the mechanical arts, and who when selling the same shall state to the purchaser that such quicksilver has been thus employed.

Stats. 1865-6, p. 191.

See Secs. 366, 367 and 495, Penal Code.

Sale of Mines, etc., belonging to Estates of Deceased Persons.

SECTION 1. Whenever it shall appear from the inventory of the estate of any deceased person that said estate consists in whole or in part of any mines or interests in mines, or of shares, interests, or stocks in any mining corporation, such mines, interests, stocks, or shares may be sold under the order of the probate court having jurisdiction of said estate, and as hereinafter provided.

SEC. 2. The executor, administrator, or any heir at law of such estate, any creditor having a claim against the estate, any partner or member of any mining company in which such interests or shares are held, the president of any mining corporation in which stocks or shares are held or owned by such estate, may file in the probate court a petition in writing, setting forth therein the general facts of such estate being then in due course of administration, and particularly describing the mine, interest, stock, or shares owned by such estate, and which it is desired to sell. Such petition shall further set forth particularly the condition and situation of the mines, mining interests, or of the mining company or corporation in which such interests or shares are held, and especially the reasons for such sale.

SEC. 3. Upon the presentation of such petition, the probate judge shall make an order directing all persons interested to appear before him at a time and place specified, not less than four nor more than ten weeks from the time of making such order, to show cause why an order should not be granted to the executor or administrator to sell such mines, mining interests, shares, or stocks, as are set forth in such petition, and as belong to such estate. A copy of such order to show cause shall be personally served on all persons interested in the estate at least ten days before the time appointed for hearing the petition, or shall be published at least four successive weeks in such newspaper as the court shall order; *provided*, however, if all persons interested in the estate shall signify in writing their assent to such sale, the notice may be dispensed with.

SEC. 4. If, upon the hearing of such petition, it shall appear to the satisfaction of the probate judge that it is to the interest of the estate that such mining property or interests of the estate should be sold, or if it be made to appear to his satisfaction that an immediate sale is necessary in order to secure the just rights or interests of the mining partners, tenants in common, or mining corporations in which such mining shares, stocks, or property are held, such probate judge shall thereupon make an order of sale authorizing the executor or administrator to sell such mining interests, mines, stocks, or shares, as hereinafter provided.

SEC. 5. After such order of sale shall be made by the probate judge, all further proceedings for the sale of such mining property shall be in conformity with the laws providing for the sale of other real property under the orders of the probate court. And whenever such mining interest shall consist of stocks or shares held and owned as personalty, such further proceedings for the sale thereof, after the order of the sale, shall be in conformity with the law providing for the sale of the other personal property of an estate.

Stats. 1865-6, p. 359.

See Secs. 1529-33, Code Civ. Proc.

Assessments upon Stocks of Corporations.

SECTION 1. The trustees of any corporation, formed under the general laws of this State, shall have power to levy and collect, for the purpose of paying the proper and legal expenses of such corporation, assessments upon the capital stock thereof in the manner and form and to the extent hereinafter provided, and not otherwise.

SEC. 2. No one assessment shall exceed five per cent. of the stated amount of the capital stock of the corporation named in the articles of incorporation, and none shall be levied while any portion of any previous assessment shall remain unpaid or uncollected, except in cases where all the powers of the corporation shall have been exercised in accordance with the terms of this act for the purpose of collecting such previous assessment, and except also the collection of a previous assessment against one or more stockholders restrained by injunction or otherwise, in which case further assessment may be levied and collected according to this act.

SEC. 3. No assessment shall be levied except by order of the board of trustees, concurred in by a majority of said board, and entered upon the records of the corporation.

SEC. 4. Every order levying an assessment shall specify the amount thereof and the time when the person or persons to whom and the place or places where the same is payable. It shall also appoint a day subsequent to the full term of publication of the assessment notice on the stock upon which assessments remain unpaid shall be deemed delinquent, which said day shall not be less than thirty nor more than sixty days from the time of the making of the said order levying the assessment; and a day for the sale of delinquent stock, which shall not be less than fifteen nor more than sixty days from the time appointed for declaring said stock delinquent.

SEC. 5. Upon the making of such an order the secretary

shall cause to be published immediately a notice thereof in the following form:

[Name in full. Location of works.] Notice is hereby given that at a meeting of the trustees of said company, held on the [date] an assessment of [amount] per share was levied upon the capital stock of said company, payable [when, to whom, and where, particularly]. Any stock upon which said assessment shall remain unpaid on the [day fixed] shall be deemed delinquent, and will be duly advertised for sale at public auction, and unless payment shall be made before will be sold on the [day appointed] to pay the delinquent assessment, together with costs of advertising and expenses of the sale. [Signature of secretary, with particular location of office.]

SEC. 6. Said notice shall be published once each week for four successive weeks, in some daily or weekly paper published at the place designated in the articles of corporation as the principal place of business of the corporation, and also in some paper published in the county in which the works of the corporation are situated, if a paper be published therein; *provided*, that if the works of the corporation are not situated within some State or Territory of the United States, then publication in a paper of the county shall not be necessary; *provided*, also, that if there is no newspaper published at the place designated as the principal place of business of the corporation, then the publication shall be made in the newspaper published nearest thereto; and *provided*, also, that the notice specified in the fifth section of this act may be served by delivering a copy thereof, certified by the secretary, to each stockholder personally; and in case of such service upon all the stockholders of said corporation, then no notice by publication shall be necessary, and such personal notice shall be deemed complete.

SEC. 7. If any portion of the assessment mentioned in said notice shall remain unpaid on the day specified therein for declaring the stock delinquent, the secretary shall, unless otherwise ordered by the board of trustees, cause to be published in the same papers in which the notice provided for in section five shall have been published, a notice substantially in the following form:

[Name in full. Location of works.] *Notice*.—There is delinquent upon the following described stock, on account of assessment levied on the [date, and assessments levied previous thereto, if any], the several amounts set opposite the names of the respective shareholders, as follows: [Names, number of certificates, number of shares, amount.]

And in accordance with law, and an order of the board of trustees, made on the [date, if any such order shall have been made] so many shares of each parcel of said stock as may be necessary will be sold at the [particular place], on the [date], at [the hour] of said day, to pay said delinquent assessments thereon, together with costs of advertising and expenses of the sale. [Name of secretary, with particular location of office.]

SEC. 8. Said last-named notice shall state every certificate of stock with the number of shares which it represents and the amount due thereon, separately, except where certificates may not have been issued to parties entitled thereto, in which case the number of shares and amount due thereon, together with the fact that the certificates for such shares have not been issued, shall be stated.

SEC. 9. Said notice, when published in a daily or weekly paper, or in both, shall be published as follows: When published in a daily paper, the same shall be published for a period of ten days, excluding Sundays and holidays, previous to the day of sale; when published in a weekly paper, the same shall be published for two weeks previous to the day of sale, the first publication of all delinquent sales shall be at least fifteen days prior to the day of sale.

SEC. 10. By the publication of the said notices, as hereinbefore provided, the corporation shall acquire jurisdiction to sell and convey a full, complete, perfect and absolute title to all of the stock described in the notice of sale upon which any portion of the assessment or costs of advertising shall remain unpaid at the hour appointed for the sale, but shall sell no more of such stock than is necessary to pay the assessments due and cost of sale.

SEC. 11. On the day and at the place, and as nearly as may be at the hour appointed in the notice of sale, the secretary, who is hereby fully empowered and authorized, shall, unless otherwise ordered by the board of trustees, sell, or cause to be sold, at public auction, to the highest bidder for cash, so many shares of each parcel of said described stock as may be necessary to pay the assessment and charges thereon according to the terms of said notice of sale; *provided*, that if payment be made before the time fixed for sale, the party paying shall only be required to pay the actual cost of advertising.

SEC. 12. The person offering at such sale to pay the assessment and costs for the smallest number of shares, or fraction of a share, shall be deemed the highest bidder.

SEC. 13. If at the sale of any stock under the foregoing provisions of this act, no bidder shall offer to take and purchase the same for the amount of the assessments, and costs

and charges then due upon the same, then and in such case the same may be purchased and bid in by the company or corporation, through the secretary or president, or any director or trustee thereof, at a sum equal to the amount of the assessments, costs, and charges due upon the same; and in pursuance and by virtue of such purchase, the said assessments, costs, and charges shall be credited as satisfied and paid in full on the books of such corporation, and entry of the transfer of such stock to such corporation, in pursuance of such sale and purchase, shall be made on the books of said corporation. While such stock shall remain the property of such corporation, the same shall not be assessable, nor shall any dividends be declared upon the same; but all assessments and dividends shall be apportioned upon and against the other stock of such company, not owned by such corporation. All purchases of its own stock made by any corporation, in accordance with the provisions of this section, shall be held valid, and as vesting the legal title to the same in said corporation; and the stock so purchased shall be held subject to the control of the remaining stockholders, who may make such disposition of the same as they may deem fit, in accordance with the by-laws of the corporation, or vote of a majority of all the remaining shares. Whenever any portion of the capital stock of any corporation is held by the said incorporation by purchase as aforesaid, a majority of the remaining shares of stock in said corporation shall be held to be a majority of the shares of the stock in said incorporated company for all purpose of election or voting on any question before a stockholders' meeting.

SEC. 14. The times or dates fixed in any notice of assessment or notice of delinquent sale published according to the provisions of this act may be once extended for a period of not more than thirty days, by order of the board of trustees duly made and entered on the records of the corporation; but no order extending the time for the performance of any act specified in any notice shall be effectual, unless notice of such extension or postponement be appended to and published with the notice to which the order relates.

SEC. 15. No assessment duly levied shall be rendered invalid by a failure to make proper publication of the notices hereinbefore provided for, nor by the non-performance of any act required to be performed in order to enforce the payment of the same; but in case of any substantial error or omission in the course of proceedings for collection, all previous proceedings, except the levying of the assessment, shall be void, and publication shall be begun anew.

SEC. 16. No action shall be sustained to recover any stock or invalidate the sale of any stock for delinquent assessments, upon the ground of any irregularity in making the assessment, or for any irregularity in or defect of the notice of such sale, or for any defect or irregularity in the sale, unless the party seeking to maintain such action shall first pay or tender to the corporation, or the party holding such stock so sold, the sum for which the same was sold, together with all subsequent assessments which may have been paid thereon, and interest on such sums from the time they were paid; and no such action shall be sustained unless the same shall be commenced by the filing of a complaint, and the issuance of a summons thereon within six months after such sale shall have been made.

SEC. 17. An act concerning assessments upon the stock of corporations, approved April fourth, eighteen hundred and sixty-four, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed; *provided*, that such repeal shall not affect proceedings commenced for the collection of assessments heretofore levied, but all such assessments may be collected in accordance with the provisions of the laws then in force.

Stats. 1865-6, 458.

See supplemental Act March 9, 1870; see page 77.

See Secs. 331-49, Civ. Code.

Mining Partnerships.

SECTION 1. Whenever any two or more persons, being owners, occupants, or locators of any mining claim, or when any two or more persons shall have associated themselves together, with or without any written agreement (but not as a body corporate), for the purpose of working or prospecting any mining claim on any of the public lands of the United States, shall, after being notified in writing by any member of said mining company that they have been associated in said mining claim, be deemed to be copartners for the purpose of prospecting or working said mining claim, and shall be subject to the provisions and liabilities imposed by this act.

SEC. 2. After a mining claim shall have been located, any person who shall be a member of the company, desiring to work said claim, may notify the other members of the company of his or their desire to have an assessment levied against the owners of said claim for the purpose of prospecting, working or developing such claim, designating a time and place for a meeting of the members of such company for the purpose of levying such assessment. Such notice shall be given as provided in the fourth section of

this act, and if a majority of the shares in such mining claim be represented at such meeting, then a majority of those present at such meeting shall be authorized to levy such assessment; but if a majority of the shares in such company be not represented at such meeting, then a majority of those present shall be authorized to cause the said mining claim to be prospected or worked; and thereafter the owners in such mining claim shall be liable for their respective proportion of the expenses so incurred in prospecting, working, or developing such claim, to the extent of the value of their interest in such claim; and thereafter assessments may be levied from time to time, not oftener than once in thirty days, by any member not delinquent of said mining company, against delinquent members, for the collection of sufficient amount of assessment to pay for the working and prospecting of such claim up to the time such assessment is made; and such delinquent assessment may be collected as in this act provided; *provided*, that when the mining companies have by-laws designating what amount of work shall be done in such claim, then any assessment made as provided in this act shall not exceed an amount sufficient to pay for the work required by the by-laws; and *provided*, further, that no new assessment shall be made until all previous assessments have been paid, or the remedies for the collection thereof shall have been exhausted.

SEC. 3. Any member of a mining company, or his heirs, executors, administrators or assigns, in any mining claim, who shall neglect or refuse to pay any assessments, or shall neglect to perform any labor or other liability which shall become due from him under this act, may, after the expiration of thirty days after such assessment, labor or other liability has become due, be notified in writing by any remaining member or members, or by his or their agent, that such assessment, labor, or other liability is due, which written notice shall specify the name of such mine and the district wherein it is located, and shall particularly mention the liability which has been incurred.

SEC. 4. Such notice, and all other notices required under this act, shall be served as follows: First. If the party reside in the county where the mine is located, it shall be delivered to him personally, or left at his place of residence. Second. If the party reside out of the county but within the State, and his place of residence is known, such notice shall be deposited in a post-office or express-office, in a sealed envelope, with postage or express charges, as the case may be, prepaid, addressed to such party at his place of residence. Third. If such party reside out of the State, or his place of residence is unknown, such notice shall be pub-

lished once a week, for eight successive weeks, in some newspaper published in the county where the mine is located, if there be such paper; otherwise, in some newspaper published in an adjoining county.

SEC. 5. If the person so notified shall neglect or refuse to pay or discharge such assessments, work, or liability, for ten days after personal service or leaving notice at his residence, when such service has been had or notice so left, or for twenty days after deposit in post or express office of such notice, when such deposit has been made, or until the expiration of the full period of publication herein provided, when publication is made, thereafter such delinquent shall be deemed to have absolutely forfeited and abandoned to the other members of said mining company all the right, title, claim, and interest owned, held, or possessed by such delinquent in the said mining claim, such portion thereof as shall be sufficient to satisfy such delinquency; the remaining member or members may sell the interest of such delinquent member in and to such mining claim, or so much of said interest as may be required to pay such assessment or liability, together with costs of sale.

SEC. 6. All sales under the provisions of this act shall be at public auction at the mining claim, and shall be made by any constable of the township, auctioneer, or sheriff of the county, and by giving ten days' notice thereof by posting written notices in three public places within the mining district where such mine is located. The notice shall also specify the extent of the interest of the delinquent, and the amount of the delinquency, and the name of such delinquent member or members, at the time and place of such sale, which place shall be within the district where the mine is located, and shall commence by offering the smallest number of feet or shares in such claim for sale, and continue selling at the same time and place until a sufficient number of feet or shares is sold to pay the delinquent assessment or liabilities; and the officer selling shall execute a deed to the purchaser or purchasers, and such deed shall be received in all courts as *prima facie* evidence of the lawful authority of the officer selling, and of the regularity of all proceedings prior to the execution of the deed, and as *prima facie* evidence that all the right, title, and interest of the party delinquent has been lawfully and rightfully sold and conveyed to the purchaser; and the purchaser's title to such mining claim shall be absolute.

SEC. 7. The provisions of this act shall also apply to all persons who have refused or neglected to sign articles of incorporation or a deed of trust in any incorporated mining company.

SEC. 8. An act entitled "An act concerning partnerships for mining purposes," approved April fourth, eighteen hundred and sixty-four, is hereby repealed.

Stats. 1865-6, p. 828.

See Secs. 2511-20, Civ. Code.

Foreign Miners' Tax.

SECTION 1. All moneys hereafter collected for foreign miners' license, except when otherwise specially appropriated by law to special use, less the percentage allowed for collection, shall be paid into the county treasury of the county in which they are collected; ten per cent. of which shall be accredited to and become a part of the county school fund, and the remainder shall be paid into the general fund of said county.

Section 2. How issued, and by whom signed.

Section 3. Record of, to be kept by recorder.

Section 4. Reports of auditor and collector to be made quarterly to board of supervisors.

Section 5. All acts in conflict repealed, except those granted for specific purposes.

Stats. 1867-8, 173.

Certificates of Incorporation.

SECTION 1. Any corporation now or hereafter organized under the laws of this State may amend its articles of association, or certificate of incorporation, by a majority vote of the board of directors, or trustees, and by a vote or written assent of the stockholders representing at least two-thirds of the capital stock of such corporation; and a copy of the said articles of association or certificate of incorporation, as thus amended, duly certified to be correct by the president and secretary of the board of directors, or trustees of such corporation, shall be filed in the same office, or offices, where the original articles or certificate are required by law to be filed; and from the time of filing such copy of the amended articles or certificate, such corporation shall have the same powers, and it and the stockholders thereof shall be thereafter subject to the same liabilities as if such amendment had been embraced in the original articles or certificate; *provided*, that the time of the existence of such corporation shall not be thereby extended beyond the time fixed in the original articles or certificate; and *provided*, further, that such original and amended articles or certificate shall, together, contain all the matters and things required by the law under which the original articles of association or certificate of incorporation were executed and filed; and *provided*, further, that nothing herein contained shall be

construed to cure or amend any defect existing in any original certificate of incorporation heretofore filed, by reason of the failure of such certificate to set forth the matters required by law to make the same valid as a certificate of incorporation at the time of the filing thereof; also *provided*, that unless the vote or written assent of all the stockholders has been obtained; then a notice of the intention to make such amendment shall first be advertised for sixty days, in some newspaper published in the town or county in which the principal place of business of said company is located; and the written protest of any one of said stockholders, or his duly authorized agent or attorney, whose assent has not been obtained, filed with the secretary of the said company, shall, unless withdrawn, be effectual to prevent the adoption of such amendment; *provided*, that nothing in this act shall be construed to authorize any corporation to diminish its capital stock.

Stats. 1869-70, p. 107.

Concerning Assessments.

SECTION 1. The publication of any and all notices required by the provisions of said act to which this is supplementary may be proved by the affidavit of the printer or his foreman, or principal clerk of the paper in which the same was published; and the affidavit of the secretary or other auctioneer who may have sold any stock for delinquencies under said act shall be prima facie evidence of the time and place of such sale, of the quantity and particular description of the stock sold, and to whom and for what price, and of the fact of the purchase-money being paid. Such affidavits shall be filed in the office of the corporation, and copies of the same, certified by the secretary thereof as true and correct, shall be admissible in evidence in all courts the same as the original, and shall be prima facie evidence of the facts therein stated. Such certificate purporting to be signed by said secretary, and purporting to be under the seal of such corporation, shall be prima facie proof of the fact that the person signing the same was, at the date thereof, such secretary, that his signature thereto is genuine, and that such seal is the seal of said corporation.

Stats. 1869-70, p. 229.

See Sec. 348, Civ. Code.

Rights of Owners of Mines.

SECTION 1. The owner or owners of mines or mining claims in this state shall have a right of way for ingress and egress for all necessary purposes, over and across the land or mining claims of others, as hereinafter prescribed.

SEC. 2. Whenever any mine or mining claim shall be so situated that it cannot be conveniently worked without a road thereto, or a ditch to convey water thereto, or a ditch or cut to drain water therefrom, or without a flume or tunnel thereto, or a place whereon to dump or deposit tailings, and such road, ditch or drain, or such flume or tunnel shall necessarily pass over, across, or through or under, and such place of deposit be upon mining claims or other lands owned or occupied by others, then shall such first mentioned owner or owners be entitled to a right of way for such road, ditch, drain, flume or tunnel over, across, or through or under, or to such place of deposit upon such other mining claims or lands, upon compliance with the provisions of this Act.

SEC. 3. Whenever the owner or owners of any mine or mining claim shall desire to work the same, and it is necessary, to enable him or them to do so conveniently, that he or they should have a right of way for any of the purposes mentioned in the foregoing sections, or that he or they should have a place for dumpage and deposit of tailings, as mentioned in the preceding section, and such right of way or place of deposit shall not have been acquired by private agreement between him or them and the owners or occupants of the claims or lands over, across, under or upon which he or they seek to establish such right of way or place of deposit, then it shall be lawful for him or them to present to the County Court, or to the County Judge, if the court be not in session, of the county wherein such mine or claims are situated, a petition, praying that such right of way or place of deposit be awarded to him or them. Such petition shall be verified and shall contain a particular description of the character and extent of the right sought, a description of the mine or claims of the petitioners, and of the claims or lands to be affected by such right or privilege, with the names of the owners or occupants thereof. It shall also show that such right or privilege has not been acquired by private agreement or contract between the respective parties, and shall conclude with a prayer for the allowance thereof by the court or judge and the appointment of three commissioners to assess the damages resulting from such allowance.

SEC. 4. Upon the receipt of such petition and the filing thereof in the office of the clerk of the county court, the court or judge, as the case may be, shall direct a citation to issue, under the seal of the court, to the owners named in the petition of mining claims or lands to be affected by the granting of such right or privilege, requiring them, and each of them, to appear before such court, or the judge thereof, if the court be not in session, on a day therein

named, which shall not be less than ten days from the service thereof, and show cause why such right or privilege should not be awarded or allowed, and such commissioners appointed, as prayed for. Such citation shall be served on each of the parties therein named, in the manner prescribed by law for the service of summons in ordinary proceedings at law.

SEC. 5. Upon the day named in the citation, or upon any subsequent day to which the hearing may be adjourned, the County Court, or the County Judge, if the court be not in session, shall proceed to hear the allegations and proofs of the respective parties, and if satisfied that the claims of the petitioners can only be conveniently worked by means of the right of way, privilege or place of deposit prayed for, shall make an order adjudging and awarding to such petitioner such right of way, privilege or place of deposit, and appointing three disinterested persons, residents of the county, as a commission to assess the damages resulting to the owners of mining claims or lands affected thereby.

SEC. 6. The commissioners so appointed being duly sworn, shall proceed without delay to examine the mine or claims of the person or persons petitioning, as well as the mining claims or lands to be affected by the right or privilege prayed for. They may also hear testimony relative to the value of such mining claims or lands and the damages resulting from such right or privilege, and report in writing the result of their inquiries, to the court or judge appointing them. Such report shall designate the course or line, and dimensions of the road, ditch, drain, flume or tunnel (as the case may be), or the place of deposit prayed for. It shall further designate the value of the lands to be occupied by or appropriated to and for such right of way or place of deposit, and assign the damages which each of the owners or occupants of mining claims or lands affected by such right or place of deposit shall suffer in consequence thereof.

SEC. 7. Within ten days from the filing of such report, any of the parties concerned in the same may move, for cause shown by affidavit, to set aside the same; and if, upon the hearing of such motion, such court or judge shall set aside or vacate such report, a new commission shall be appointed, which shall proceed in all respects as provided for the first commission. If no motion to set aside the report of the first or any succeeding commission be made as provided in the last section, or if, being made, it is denied, then the same shall be regarded as final, and an order shall be made by the court or judge in pursuance thereof.

SEC. 8. Upon the payment of the sum assessed as damages to each of the owners, or occupants of claims or lands

to whom the same shall have been awarded by the report and order mentioned in the preceding section, then the person or persons petitioning shall be entitled to the right of way or place of deposit, as designated and defined by such report, over or upon the land or claims of the person or persons receiving such compensation, and he or they may, upon making such payment, proceed to occupy the line, route, way or place of deposit so designated, and to erect thereon such works and structures, and make such excavations, as may be necessary to the use and enjoyment of the right of way or place of deposit so awarded.

SEC. 9. Whenever the owner or owners of any mine or mining claims are desirous, in working the same, to carry off the tailings and other refuse matter through and along any water course, ravine or natural outlet, which is in whole or in part owned or occupied by other persons for mining or other purposes, then such first mentioned owner or owners may proceed, in the manner hereinbefore provided, to have such right and privilege awarded to him or them; *provided*, nevertheless, that the County Court or Judge shall not make such award or appoint a commission unless such court or judge shall be satisfied that the right or privilege sought can be enjoyed without especial injury to those owning or occupying claims or lands along or upon such water course, ravine or outlet.

SEC. 10. All costs and expenses shall be paid by the party making the application, and the commissioners appointed shall receive five dollars per day for each day actually engaged in the service.

Stats. 1869-70, p. 569.

Incorporation of Canal Companies.

SECTION 1. Corporations may be formed under the provisions of the act of April fourteenth, eighteen hundred and sixty-three, entitled an act to provide for the formation of corporations for certain purposes, and of the several acts amendatory thereof and supplementary thereto, for the following purposes, namely: The construction of canals for the transportation of passengers and freights; for the supplying water for irrigation; for procuring water power; for conveying water for mining or manufacturing purposes, or for all such purposes combined.

The Act alluded to in this section was passed in 1853, not 1863. See Stats. 1853, p. 87.

SEC. 2. The right is hereby granted to any company organized under this act, or which may have been organized under preceding acts, to construct all reservoirs, dams, embankments, canals, ditches, and other works necessary to

the objects of such company; to make the surveys necessary to the selection of the sites and routes of such works, and to acquire all lands, waters not previously appropriated, and other property required for the proper construction, use, supply, maintenance, repairs and improvements of the same, in the manner hereinafter provided.

SEC. 3. Any company organized in pursuance of this act, or any company organized under any pre-existing acts for similar purposes, shall have the power to locate and fix upon the line or route of its proposed ditch or canal, and select the site or sites of its proposed dams, embankments and reservoirs, in conformity with the designation of its engineer or business manager.

SEC. 4 In case the route so fixed upon, or any part thereof, or the site so selected, be upon land owned by individuals, or upon public land possessed and occupied by individuals, and the right to such route or site over or upon such land has not been acquired by agreement with such owners or occupant, then it shall be lawful for such company to present to the county judge of the county wherein such land is situate, a petition, verified by an officer or agent of the company, showing that such route or site is necessary to such company; that it passes over or is upon such land, and that a right to the same has not been acquired by agreement with the owner or occupant (naming him) of the land. It shall conclude with a prayer for the appointment of commissioners to assess the damages resulting to such owner or occupant because of the selection and appropriation of such route or site.

Section 5. Citation, and how served.

Section 6. Time for hearing fixed, and appointment of commissioners.

Section 7. Powers and duties of commissioners.

Section 8. Damages, how assessed.

Section 9. When new commission may be appointed.

Section 10. Order of condemnation.

Section 11. Compensation of commissioners.

Section 12. Bridges to be kept in repair.

Section 13. Repeals all conflicting acts.

Stats. 1869-70, p. 660.

Concerning Corporations.

SECTION 1. Section two of act of April 14, 1853, is hereby amended so as to read as follows: Section 2. Any three or more persons who may desire to form a company for any one or more of the purposes specified in the preceding section, may make, sign, and acknowledge before some officer competent to take the acknowledgment of deeds, and file in

the office of the county clerk of the county in which the principal place of business of the company is intended to be located, and certified copies thereof under the hand of the clerk and seal of the county court of said county, in the office of the secretary of state, and in the office of the clerk of the several counties in which they may carry on their business, a certificate in writing, in which shall be stated the corporate name of the company, the object for which the company shall be formed, the amount of its capital stock, the time of its existence, not to exceed fifty years, the number of shares of which the stock shall consist, the number of trustees, and their names, who shall manage the concerns of the company for the first three months, and the names of the city, or town, and county in which the principal place of business of the company is to be located.

Stats. 1871-2, p. 526.

Protection of Miners.

SECTION 1. It shall not be lawful for any corporation, association, owner or owners of any quartz mining claims within the State of California, where such corporation, association, owner or owners, employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

SEC. 2. It shall be the duty of each corporation, association, owner or owners of any quartz mine or mines in this State, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, associations, owner or owners of mines as aforesaid, working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

SEC. 3. When any corporation, association, owner or owners of any quartz mine in this State shall fail to provide for the proper egress as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured, and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner or owners of the mine where the injuries shall have occurred, shall be liable to the person injured in all damages that may accrue by reason

thereof; and an action at law in a court of competent jurisdiction, may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages as provided by an act entitled an act requiring compensation for causing death by wrongful act, neglect, or default. Approved April twenty-sixth, eighteen hundred and sixty-two.

Stats. 1871-2, p. 413; in force.

Concerning Corporations.

SECTION 1. On petition of the majority of the shareholders of any corporation formed for the purpose of mining, to the county judge of the county where said corporation has its principal place of business, verified by the signers, to the effect that they are severally the holders, on the books of the company, of the number of shares set opposite their signatures to the foregoing petition, the county judge shall issue his notice to the shareholders of said company that a meeting of the shareholders will be held, stating the time, not less than five nor more than ten days after the first publication of such notice, and the place of meeting within said county, and the object to be to take into consideration the removal of officers of said company; which notice, signed by the said county judge, shall be published daily in one or more daily newspapers published in said county, for at least five days before the time for the meeting.

SEC. 2. At the time and place appointed by said notice, those claiming to be shareholders, who shall assemble, shall proceed to organize by the appointment of a chairman and secretary, and, thereupon, those claiming to be shareholders shall present proof thereof, and only those showing a right to vote shall take part in the further proceedings. If it appears that at the time appointed, or within one hour thereafter, shareholders of less than one-half the shares are present, no further proceedings shall be had, but the meeting shall be *ipso facto* dissolved; *provided*, however, that by a vote of the holders of two-thirds of the capital stock of the corporations aforesaid, the board of trustees may be required to furnish to the meeting a written detailed statement and account of the affairs, business and property of the corporation; but if the holders of more than two-thirds of the shares are present, they shall proceed to vote, the secretary calling the roll and the members voting yea or no

as the case may be. The secretary shall enter the same upon his list, and when he has added up the list and stated the result, he shall sign the same and hand it to the chairman, who shall also sign the same and declare the result.

This section was amended by Act April 1, 1876, as follows: In line 11 strike out "two-thirds" and insert "the majority." In line 15 strike out "more than two-thirds" and insert "a majority."

SEC. 3. If the result of the vote is that the holders of a majority of all the shares of the company are in favor of the removal of one or more of the officers of the company, the meeting shall then proceed to ballot for officers to supply the vacancies thus created. Tellers shall be appointed by the chairman, who shall collect the ballots and deliver them to the secretary, who shall count the same in open session, and having stated the result of the count in writing, shall sign the same and hand it to the chairman, who shall announce the result to the meeting.

SEC. 4. A report of the proceedings of the meeting shall be made in writing, signed by the chairman and secretary and verified by them, and delivered to the county judge, who shall thereupon issue to each person chosen a certificate of his election, and shall also issue an order requiring that all books, papers, and all property and effects be immediately delivered to the officers elect, and the petition and report indorsed with the date and fact of the issuance of such certificate and order, shall be delivered to the county clerk, to be by him filed in his office, and thereafter the persons thus elected officers shall be the duly elected officers and hold office until the next regular annual meeting, unless removed under the provisions hereof.

SEC. 5. Fees of County Clerk.

SEC. 6. Repeals all conflicting Acts.

Stats. 1871-2, p. 443.

Protection of Coal Mines and Miners.

SECTION 1. The owner or agent of every coal mine shall make, or cause to be made, an accurate map or plan of the workings of such coal mine, on a scale of one hundred feet to the inch.

SEC. 2. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine, open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines, by the agent or other person having charge of the mines, open to the inspection of the workmen.

SEC. 3. The owner or agent of every coal mine shall provide at least two shafts, or slopes, or outlets, separated by natural strata of not less than one hundred and fifty feet in

breadth, by which shafts, slopes, or outlets, distinct means of ingress and egress are always available to the persons employed in the coal mine; *provided*, that if a new tunnel, slope, or shaft will be required for the additional opening, work upon the same shall commence immediately after the passage of this act, and continue until its final completion, with reasonable dispatch.

SEC. 4. The owner or agent of every coal mine shall provide and establish for every such mine an adequate amount of ventilation of not less than fifty-five cubic feet per second of pure air, or thirty-three hundred feet per minute, for every fifty men at work in such mine, and as much more as circumstances may require, which shall be circulated through to the face of each and every working place throughout the entire mine, to dilute and render harmless and expel therefrom the noxious, poisonous gases, to such an extent that the entire mine shall be in a fit state for men to work therein, and be free from danger to the health and lives of the men by reason of said noxious and poisonous gases, and all workings shall be kept clear of standing gas.

SEC. 5. To secure the ventilation of every coal mine, and provide for the health and safety of the men employed therein, otherwise and in every respect, the owner or agent, as the case may be, in charge of every coal mine, shall employ a competent and practical inside overseer, who shall keep a careful watch over the ventilating apparatus, over the airways, the traveling ways, the pumps and sumps, the timbering, to see, as the miners advance in their excavations, that all loose coal, slate, or rock overhead is carefully secured against falling; over the arrangements for signaling from the bottom to the top, and from the top to the bottom of the shaft or slope, and all things connected with and appertaining to the safety of the men at work in the mine. He or his assistants shall examine carefully the workings of all mines generating explosive gases, every morning before the miners enter, and shall ascertain that the mine is free from danger, and the workmen shall not enter the mine until such examination has been made and reported, and the cause of danger, if any, be removed.

SEC. 6. The overseer shall see that the hoisting machinery is kept constantly in repair, and ready for use to hoist the workmen in or out of the mine.

SEC. 7. The word "owner" in this act shall apply to lessee as well.

SEC. 8. For any injury to person or property occasioned by any violation of this act, or any willful failure to comply with its provisions, a right of action shall accrue to the party injured, for any direct damages he or she may have

sustained thereby, before any court of competent jurisdiction.

SEC. 9. For any willful failure or negligence on the part of the overseer of any coal mine, he shall be liable to conviction of misdemeanor and punished according to law; *provided*, that if such willful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter.

SEC. 10. All boilers used for generating steam in and about coal mines shall be kept in good order, and the owner or agent thereof shall have them examined and inspected by a competent boilermaker, as often as once in three months.

SEC. 11. This act shall not apply to opening a new coal mine.

Stats. 1873-4, p. 726; in force.

Regulating Sale of Mineral Lands belonging to the State.

SECTION 1. Any person desiring to purchase from this State any portion of any sixteenth or thirty-sixth section, that shall have been designated by United States survey as of a mineral character, or which is so in fact, shall make an affidavit before some officer authorized to administer oaths, that he or she is a citizen of the United States, or, if a foreigner, that he has filed his intention to become a citizen of the United States; that he or she is of lawful age, and desires to purchase said land, giving a description thereof by legal subdivisions; that he or she has not entered any portion of such mineral lands which, together with that applied for in such affidavit, will exceed forty acres; that there is no occupation of said land adverse to that which he or she holds, or, if there be any adverse occupation thereof, then he or she must state the name of such adverse occupant, together with the fact that the plat of the township has been on file six months or over, and that such adverse occupant has been in such occupation six months or over.

SEC. 2. Any person that shall be in the actual possession of any of said lands described in section one, at the time of the survey thereof by the United States, or at the time of the passage of this act, shall be considered a preferred purchaser thereof; *provided*, he or she makes his or her application for the purchase of the same within six months after the filing of the plat of such survey in the United States land-office, or within ten months after the passage of this act.

Amended by Act of February 3, 1876. See p. 89.

SEC. 3. When a contest shall arise as to the mineral character of the lands applied for, or from any other cause, the surveyor-general, or the register before whom the contest is made, must, within thirty days after the adverse applica-

tion is filed, unless sooner referred, at the request of either claimant, make an order referring such contest to the district court of the county within which the land is situated, and must enter such order in the proper book of his office, and forward a copy thereof to the clerk of the court to which the reference is made. Upon the filing of a copy of such order with the clerk of the court, either party may commence an action in said court to determine the conflict, and the court shall have full and complete jurisdiction to hear and determine the same. Unless an action shall be commenced within ninety days after the copy of the order of reference shall have been filed with the clerk of the court, the party making such demand, or the adverse claimant, if the case is referred without demand, shall be deemed to have waived and surrendered his or her right to purchase, and the surveyor-general or register shall proceed as though his or her application had not been made.

SEC. 4. All lands sold under the provisions of this act shall be sold for the sum of two dollars and fifty cents per acre, in United States gold coin, payable to the treasurer of the county in which the lands are situated, within fifty days from the date of the approval by the surveyor-general; and in case said payment is not made within said fifty days, the land described in the location shall revert to the State without suit, and said location shall be and become null and void. All payments made to the county treasurer as above provided, shall be paid over and accounted for as other moneys received for State lands are required to be paid over and accounted for.

SEC. 5. The surveyor-general and register shall, in the matter of approving locations, issuing certificates of purchase, or patents, or in other proceedings relating to the sale of lands of a mineral character, which proceedings are not provided for in this act, proceed in the same manner as is now provided for the sale of sixteenth and thirty-sixth sections which are not of a mineral character.

SEC. 6. All patents issued by the State to any portion of any sixteenth or thirty-sixth section, shall be subject to any vested and accrued water rights, ditches and reservoirs, used in connection therewith, acquired by priority of possession under local customs, and the decisions of the courts, and the right of way for the construction of ditches and canals, for mining and other purposes, over all of the sixteenth and thirty-sixth sections owned by the State, is hereby granted and confirmed.

SEC. 7. After the passage of this act no patent shall be issued by the State for any of the lands described in this act, upon which, at the time of the application therefor,

there was and still is any actual bona fide mining claim, except to the person who is the owner of such mining claim, under local mining customs, and not to such owner in excess of forty acres; and when an applicant for such lands, not owning such mining claim, shall have paid the purchase-money therefor, in whole or in part, he may present his certificate of purchase, and receive in exchange therefor, from the register, a certificate showing the whole amount paid; and the controller, upon the surrender of such certificate, must draw his warrant in favor of the person surrendering such certificate, for the amount therein specified, on the treasurer of State, who must pay the same out of the fund into which the purchase-money was paid; *provided*, that the owner of such mining claim, under such mining customs, shall apply to purchase the same within six months after the plat of the township containing such land shall have been filed in the local United States land-office, or within ten months after the passage of this act; *and provided further*, that any owner of a bona fide mining claim, who shall have entered into an agreement with the applicant for any portion of the sixteenth or thirty-sixth section upon which said mining claim is situated, for the procurement of a title for the same, shall not avail himself of the provisions of this section. The Governor of this State shall not sign any patent contrary to the provisions of this act.

Section 8 repeals all acts conflicting.

Amended by Act of February 3, 1876. See p. 89.

Stats. 1873-4, p. 766; in force.

Protection of Stockholders in Mining Corporations.

SECTION 1. It shall be the duty of the secretary of every corporation formed under the laws of the State of California, for the purpose of mining, to keep the books of such corporation as prescribed by its by-laws; *provided*, such by-laws are not inconsistent with the laws of this State. The books of such corporation shall be produced for examination and inspection during the hours of business every day in the year, Sundays and legal holidays excepted, upon the demand of any stockholder holding and presenting a certificate of stock in such corporation, either in his own name or properly indorsed; and the secretary of such corporation shall be required, upon the demand of any stockholder holding stock in such corporation to the amount of five hundred dollars, par value, to have the books of the corporation written up at the end of each month, and shall make out a balance sheet, showing the correct financial condition of the corporation; and on or before the tenth day of January and July, of each year, he shall make out a written

statement, showing all the business and financial transactions of the corporation for the six months preceding, which statement shall also contain a full description of all property of the corporation, and the character and extent of the same; and such statements, together with all papers and records of the corporation, shall be open to examination and inspection upon any demand by such stockholder. All demands of stockholders, as specified in this section, shall be made to the secretary, at the office of the corporation where its principal place of business is located.

SEC. 2. Any owner of stock of the par value of five hundred dollars, in any of the corporations mentioned in section one of this act, shall, at all hours of business or labor on or about the premises or property of such corporation, have the right to enter upon such property and examine the same, either on the surface or underground. And it is hereby made the duty of any and all officers, managers, agents, superintendents, or persons in charge, to allow any such stockholder to enter upon and examine any of the property of such corporation at any time during the hours of business or labor; and the presentation of certificates of stock in the corporation of the par value of five hundred dollars, to the officer or person in charge, shall be prima facie evidence of ownership and right to enter upon or into, and make examinations of the property of the corporation.

SEC. 3. The violation of any of the provisions of sections one and two of this act shall subject the trustees of the corporation to a fine of two hundred dollars, and costs of suit, and the expenses of the stockholders so refused, in traveling to and from the property, which may be recovered in any court of competent jurisdiction, either in the county where the property is situated or in the county where the office and principal place of business of the corporation is situated, which said fine shall be imposed and collected for and paid over to the person so refused, together with all moneys collected for the said traveling expenses.

SEC. 4. Repeals all acts conflicting.

. Stats. 1873-4, p. 866; in force.

Sale of Mineral Lands.

SECTION 1. Section two of the act of March 28, 1874, is hereby amended so as to read as follows: Section 2. Any person that shall be in the actual possession of any of said lands, described in section one, at the time of the survey thereof by the United States, or at the time of the passage of this act, shall be considered a preferred purchaser thereof to the extent of his or her mining claim, provided he or she make application for the purchase of the same on or before

the first day of January, 1877, if the plat of such survey be already filed in the United States land-office; and if not so filed, then within six months after the filing of such plat, as aforesaid.

SEC. 2. Section seven of the act of March 28, 1874, is hereby amended so as to read as follows: Section 7. After the passage of this act, no patent shall be issued for any of the lands described in this act upon which, at the time of the application therefor, there was and still is any actual bona fide mining claim, except to the person who is the owner of such mining claim under local mining customs; and when an applicant for such lands, not owning such mining claim, shall have paid the purchase-money therefor, in whole or in part, he may present his certificate of purchase and receive in exchange therefor, from the register, a certificate showing the whole amount paid; and the controller, upon the surrender of such certificate, must draw his warrant in favor of the person surrendering such certificate, for the amount therein specified, on the Treasurer of State, who must pay the sum out of the fund into which the purchase-money was paid; *provided*, that the owner of such mining claim, under such mining customs, shall apply to purchase the same within six months after the plat of the township containing such land shall have been filed in the local United States land-office, or on or before the first day of January, 1877; *and provided further*, that any owner of a bona fide mining claim who shall have entered into an agreement with the applicant for any portion of sixteenth or thirty-sixth section upon which said mining claim is situated, for the procurement of a title for the same, shall not avail himself of the provisions of this section. The Governor of this State shall not sign any patent contrary to the provisions of this act.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

Stats. 1875-6, p. 20; in force.

Concerning Corporations.

An Act to amend an Act entitled "An Act supplemental to an Act entitled • An Act concerning Corporations," passed April 22, 1850.

[Approved March 21, 1872.]

The amendments will be found to note to section two of the Act concerning Corporations, on page 82.

MINING STATUTES

OF THE

TERRITORY AND STATE OF NEVADA.

Legality of Conveyance not Affected.

SECTION 40. The legality of the execution, acknowledgment, proof, form, or record of any conveyance, or other instrument, heretofore made, executed, acknowledged, proved, or recorded, shall not be affected by anything contained in this act; but shall depend for its validity or legality upon the laws and customs then in existence and in force in the mining and agricultural districts.

Stats., 1861, p. 16.

Mortgagee of Mining Interests.

SEC. 77. This act shall not be so construed as to interfere or conflict with the lawful mining rules, regulations, or customs in regard to the locating, holding, or forfeiture of claims, but in all cases of mortgages of mining interests under this act, the mortgagee shall have the right to perform the same acts that the mortgagor might have performed for the purpose of preventing a forfeiture of the same under the said rules, regulations, or customs of mines, and shall be allowed such compensation therefor as shall be deemed just and equitable by the court ordering the sale upon a foreclosure; *provided*, that such compensation shall in no case exceed the amount realized from the claim by a foreclosure and sale.

Stats., 1861, p. 21.

Action for Recovery of Mining Claims.

SEC. 4. No action for the recovery of mining claims, or for the recovery of the possession thereof, shall be maintained, unless it appear that the plaintiff or his assigns was seised or possessed of such mining claim in question within two years before the commencement of such action.

Stats., 1861, p. 27.

Amended by Act of March, 1867.

Supplemental Act of February 27, 1869.

Injuring Property of Water Companies.

SEC. 146. Every person who shall willfully and maliciously cut, break, injure, or destroy, any bridge, mill, dam, canal, flume, aqueduct, reservoir, or other structure erected to create hydraulic power, or to conduct water for mining, manufacturing, or agricultural purposes, or any embankment necessary to the same, or either of them, or shall willfully or maliciously make, or cause to be made, any aperture in such dam, canal, flume, aqueduct, reservoir, embankment, or structure, with intent to injure or destroy the same, shall, on conviction thereof, be fined in any sum not more than one thousand dollars, or imprisonment in the territorial prison, not less than one year, nor more than two years, or both such fine and imprisonment.

Stats. 1861, p. 87.

Partition of a Mining Claim.

SECTION 707. When several persons hold and are in possession of mining claims as joint tenants or tenants in common, upon the petition of one or more of the joint tenants, or tenants in common, the court having jurisdiction shall appoint a commissioner who shall proceed to make a partition of the property to be divided, and make a report to the court as provided in this act.

SEC. 708. In case of partition of a mining claim, any of the tenants in common or joint tenants interested therein may file an affidavit showing to the court that a sale for cash would be injurious to him, her, or them, the court shall upon such showing appoint a commissioner who shall decide such claim as hereinafter provided for.

SEC. 709. The commissioner provided for in the last section shall proceed to the place where such claim is located, and at such time as the court may direct, within not less than twenty nor more than forty days after such sale shall have been ordered by the court, shall sell such claim at auction to the highest bidder, in parts or parcels to the joint tenants or tenants in common, and shall receive bids in shares or undivided interests; or parts of such claim to be divided.

SEC. 710. The party or parties seeking the partition of such mining claim shall be deemed the highest bidder, within the meaning of the last preceding section, who will take the least part or portion of such mining claim, at a place upon such claim to be selected by him, her, or them, in proportion to the whole share, shares, or interest held by such party or parties; *provided*, that if the remainder of the joint tenants or tenants in common shall fail to make a higher bid in proportion to their joint shares or interests

in such claim, then the bid of the party or parties seeking the partition shall be received and declared to be the highest bid, and the commissioner shall proceed to measure off such claim to the party or parties as hereinafter provided; and such claim or part of the claim so measured off by the said commissioner to the highest bidder shall be and is hereby considered as an entire surrender to the opposing party the remainder of his or her shares or interests in said claim, thereby relinquishing the residue of the shares or interests held by the party to whom was awarded the highest bid (not included in the measurement of said commissioner), to the adverse party.

SEC. 711. Whenever any such bid as mentioned in sections seven hundred and nine and seven hundred and ten shall have been received and declared, the commissioner shall go upon the claim and measure off to such bidder the amount of such claim so bid off, at such place as the bidder shall elect.

SEC. 712. After setting off such bids as provided in the last section, the commissioners shall again receive bids as hereinbefore provided, and shall thereafter measure off such bids as provided for in section seven hundred and ten, and shall continue, in the same manner, to receive bids and set apart the same from such claims until the parties who still hold an undivided portion of such mining claim shall be satisfied that the sale cease, and are content to hold the remaining portion of such claims as joint tenants or tenants in common, as the case may be.

SEC. 713. The court may confirm or set aside the report, and if necessary appoint a new commissioner. Upon the report being confirmed, judgment shall be rendered that such partition be effectual forever, which judgment shall be binding and conclusive.

Stats. 1861, page 434.

Repealed by Act of March 8, 1869. See Sections 312-319 of that Act.

Conveyance of Mining Claims.

SECTION 1. Conveyance of mining claims shall hereafter require the same formalities, and be subject to the same rules of construction as the transfers and conveyances of other real estate.

SEC. 2. All conveyances of mining claims heretofore made by bills of sale, or other instruments in writing, with or without seals, recorded or unrecorded, shall be construed in accordance with the lawful local rules, regulations and customs of the miners in the several mining districts of this territory; and, if heretofore regarded valid and binding in such districts, shall have the same force and effect between

the parties thereto, as prima facie evidence of sale, as if such conveyances had been made by deed under seal.

SEC. 3. The location and transfers of mining claims heretofore made, shall be established and proved in contestation before courts, by the local rules, regulations or customs of the miners in the several mining districts of the territory in which such location and transfers were made.

Stats. 1862, p. 12.

Suits for Damages Caused by Working of Mines.

SECTION 1. Any person or persons, company or corporation, being the owner or owners of or in the possession under any lease or contract for the working of any mine or mines within the Territory of Nevada, shall have the right to institute and maintain an action as provided by law for the recovery of any damages that may accrue by reason of the manner in which any mine or mines has been or is being worked and managed by any person or persons, company or corporation, who may be the owner or owners or in the possession of and working such mine or mines under a lease or contract, and to prevent the continuance of the working and managing such mine or mines in such manner as to hinder, injure, or by reason of tunnels, shafts, drifts, or excavations, the mode of using or the character and size of the timbers used or in anywise endangering the safety of any mine or mines adjacent or adjoining thereto.

SEC. 2. Any judgment obtained for damages under the provisions of this act shall become a lien upon all the property of the judgment-debtor or debtors, not exempt from execution, in the Territory of Nevada, owned by him, her, or them, or which may afterwards be acquired, as is now provided for by law, which lien shall continue two years, unless the judgment be sooner satisfied.

SEC. 3. Any person or persons named in the first two sections of this act shall have the right to apply for and obtain from any District Court or the Judge thereof within this territory an order of survey in the following manner: An application shall be made by filing the affidavit of the person making the application, which affidavit shall state, as near as can be described, the location of the mine or mines of the parties complained of, and, as far as known, the names of such parties; also the location of the mine or mines of the parties making such application, and that he has reason to believe and does believe that the said parties complained of, their agent, or employees are or have been trespassing upon the mine or mines of the party complaining, or are working their mine in such manner as to damage or endanger the property of the affiant. Upon the filing of

the affidavit as aforesaid, the court or judge shall cause a notice to be given to the party complained of, or the agent thereof, which notice shall state the time, place, and before whom the application will be heard, and shall cite the party to appear in not less than five nor more than ten days from the date thereof, to show cause why an order of survey should not be granted, and upon good cause shown, the court or judge shall grant such order, directed to some competent surveyor or surveyors, or to some competent mechanics, or miners, or both, as the case may be, who shall proceed to make the necessary examination as directed by the court, and report the result and conclusions to the court, which report shall be filed with the clerk of said court. The costs of the order and survey shall be paid by the persons making the application, unless such parties shall subsequently maintain an action and recover damages, as provided for in the first two sections of this act, by reason of a trespass or damage done or threatened prior to such survey or examination having been made, and in that case such costs shall be taxed against the defendant as other costs in the suit. The parties obtaining such survey shall be liable for any unnecessary injury done to the property in the making of such survey.

Stats. 1862, p. 33.

Mining Companies may Sue Delinquents.

SECTION 1. Corporations and associations and companies formed for mining purposes, are hereby authorized in their corporate or associated name to institute suits against any one or more of their members who may be delinquent in the payment of their assessments.

SEC. 2. Before such suit is brought before any court having jurisdiction of the amount, such delinquent and the amount he may owe, and the intention to institute suit thereon, shall be advertised in a newspaper published in the county where the mining claim is located, and if no newspaper be published in such county, then in a newspaper published in the nearest adjoining county, for at least once a week for one month before such suit is instituted.

SEC. 3. It shall be proved on the trial of such suit that the trustees or managing agents of said corporation, or association, or company, were fully authorized to institute such suit by a majority of the members of said corporation, or association, or company.

SEC. 4. The members of such corporation, association or company shall be competent witnesses to establish the assessment and indebtedness of the delinquent member.

SEC. 5. This act shall apply only to such corporations,

associations and companies who are actually engaged in mining, and for delinquency in assessments for mining.

Stats., 1862, p. 72.

Suits against Mining Companies.

SECTION 1. In all actions hereafter brought on contract, the defendants may be sued by the name or style under which the contract was made; and upon its being shown on the trial who are the persons of whom the name or style are descriptive, judgment may be rendered against them as now provided by law.

SEC. 2. In all suits against any company organized for mining purposes or against any company transacting business or keeping an office within this Territory, service may be made by reading and delivering a copy of the summons to the president, secretary, cashier, or managing agent thereof; and in case such service cannot be had, then by publication as now provided by law.

Stats., 1862, p. 120.

Formation of Mining Corporations.

Section 1. Corporations for manufacturing, mining, milling, ditching, mechanical and chemical purposes, may be formed according to the provisions of this act, such corporations and the members thereof being subject to all the conditions and liabilities herein imposed, and to none others.

Amended by Act of February 19, 1864, p. 98.

Section 2. How formed.

Amended by Act of February 19, 1864.

Section 3. Evidence of incorporation.

Section 4. Powers.

Subdivision four of this section amended by Act of February 19, 1864, p. 98.

Section 5. Board of Trustees—Vacancy.

Amended by Act of February 19, 1864, p. 98.

Section 6. Failure to hold Election.

Section 7. Quorum.

Section 8. First Meeting.

Section 9. Transfer of stock.

Section 10. Powers of Trustees—Assessments—Sale of Shares—Proviso.

Amended by Act of February 19, 1864.

Section 11. Stock held by executors, etc.

Section 12. Pledge of stock.

Section 13. Dividends; capital stock not to be reduced—Proviso.

Section 14. Debts not to exceed amount of stock paid in—Trustees responsible for excess.

Section 15. No organization under this act to possess power of issuing notes, bills, or evidences of indebtedness.

Section 16. Liability of stockholders.

Section 17. Parties holding stock in pledge, etc., not liable.

Section 18. Trustees shall keep books for names of members, etc.

Section 19. Penalty for making false entry.

Section 20. Change in capital stock.

Section 21. How made.

Amended by Act of February 19, 1864, p. 98.

Section 22. How made.

Section 23. Powers of Trustees after dissolution of Company.

Section 24. Dissolution—how affected.

Section 25. Corporations hereafter formed in other States.

Section 26. Corporations heretofore formed in other States to remove place of business.

Annulled by Act of Congress of March 3, 1863.

AN ACT to disapprove of the Twenty-Sixth Section of the Act of the Legislative Assembly of the Territory of Nevada, and for other purposes.

[Approved March 3d, 1863—Statutes at Large, Thirty-seventh Congress, p. 709.]

Be it enacted, etc., That Section Twenty-six of an Act of the Legislative Assembly of the Territory of Nevada, entitled "An Act to provide for the formation of Corporations for certain purposes," approved Dec. 20th, 1862, said section being as follows: "Section 26. All corporations heretofore formed under the provisions of acts of incorporation in other States or Territories, and holding or owning property within this Territory of such character as specified in Section First of this act, and managed by a board or boards of trustees or directors, and having their principal place of business outside the limits of this Territory, are hereby required to remove their places of business, principal offices, books and papers, heretofore kept, or necessary for the transaction of such business, to some point, to be designated by said corporation, within the limits of this Territory, within six months after the passage of this act: or otherwise such corporation or corporations shall be disregarded in law as a corporation, and the corporators or stockholders thereof be treated as tenants in common or joint owners of such property owned or so held within this Territory. Any corporation, by filing and recording its certificate of incorporation, or a certified copy thereof, with the Secretary of the Territory and with the clerk of the county in which such corporation may locate as the principal place of business, and fully complying with all the provisions of this act, shall be deemed sufficient to entitle such corporation to all the rights and privileges under the provisions of this act," be and the same is hereby disapproved, and the same is hereby annulled and made void.

SEC. 2. *And be it further enacted,* That all incorporated companies duly organized within any State or Territory of the United States may sue and be sued, plead and be impleaded, in the several courts of the Territory of Nevada, anything in the laws of said Territory to the contrary notwithstanding.

Section 27. Other requirements.

Repealed by Act of February 19, 1864, and another section substituted in its place, p. 98.

This Act was repealed by Act of March 10, 1865.

Concerning Corporations.

SECTION 1. Corporations for manufacturing, mining, milling, ditching, mechanical, chemical, building, and farming purposes, may be formed according to the provisions of this act, such corporations and the members thereof being subject to all the conditions and liabilities herein imposed and to none others.

Amended by Act of February 27, 1869.

SEC. 2. Any three or more persons who may desire to form a company for any one or more of the purposes specified in the preceding section, may make, sign, and acknowledge, before some person competent to take the acknowledgment of deeds, and file and have recorded, in a book provided for that purpose, in the office of the clerk of the county in which the principal place of business of the company is intended to be located, and a certified copy under the hand of the clerk and the seal of the court of said county, in the office of the Secretary of the Territory, a certificate in writing, in which shall be stated the corporate name of the company, the object for which the same shall be formed, the amount of its capital stock, the time of its existence, not to exceed fifty years, the number of shares of which the capital stock shall consist, the number of trustees, and their names, who shall manage the concerns of the company for such length of time (not less than two, nor more than six months), as may be designated in such certificate, and the name of the city, town, or locality and county in which the principal place of business of the company is to be located.

Amends Section 2 of Act of December 20, 1862, p. 96.

SEC. 3 amends subdivision five of section four, of act of December 20, 1862, page 96, as follows: Fifth. To require of them such security as may be thought proper for the fulfillment of their duties, and to remove them at will, except that no trustee shall be removed from office unless by a vote of two-thirds of the stockholders, as hereinafter provided.

SEC. 4. The corporate powers of the corporation shall be exercised by a board of not less than three trustees, who shall be stockholders in the company, and a majority of them citizens of the United States, and residents of this Territory, who shall, before entering upon the duties of their office, respectively take and subscribe to an oath as

prescribed by the laws of this Territory, and who shall, after the expiration of the term of the trustees first selected, be annually elected by the stockholders at such time and place within the territory, and upon such notice and in such manner as shall be directed by the by-laws of the company; but all elections shall be by ballot, and each stockholder, either in person or by proxy, shall be entitled to as many votes as he may own or represent by proxy shares of stock, and the person or persons receiving the greatest number of votes shall be trustee or trustees. It shall be competent at any time for two-thirds of the stockholders of any corporation organized under this act to expel any trustee from office, and to elect another to succeed him. In all cases where a meeting of the stockholders is called for the purpose of expelling a trustee and electing his successor, such notice shall be given of the meeting as the by-laws of the company may require. Whenever any vacancy shall happen among the trustees by death, resignation, or otherwise, except by removal and the election of his successor as herein provided, it shall be filled by appointment of the Board of Trustees.

Amends Section 5 of Act of December 20, 1862, p. 96.

SEC. 5. The stockholders of any corporation formed under this act may, in the by-laws of the company, prescribe the times, manner, and amounts in which the payment of the sums subscribed by them respectively shall be made; but in case the same shall not be so prescribed, the trustees shall have power to demand and call in from the stockholders the sums by them subscribed, at such times and in such manner, payments or installments, as they may deem proper. In all cases notice of each assessment shall be given to the stockholders personally, or by publication once a week for at least four weeks in some newspaper published in the county in which the principal place of business of the company is located, and if none be published in such county, then in the newspaper nearest to said principal place of business in the Territory. If, after such notice has been given, any stockholder shall make default in the payment of the assessment upon the shares held by him, so many of such shares may be sold as will be necessary for the payment of the assessment upon all the shares held by him, her, or them. The sale of said shares shall be made as prescribed in the by-laws of the company, but shall in all cases be made at the office of the company. No sale shall be made except at public auction, to the highest bidder, after a notice of four weeks, published as above directed in this section, and at such sale the person who shall pay the assessment so due, together with the expenses

of advertising and sale for the smallest number of shares or portion of a share, as the case may be, shall be deemed the highest bidder.

Amends Section 10 of Act of December 20, 1862, p. 96.

SEC. 6 amends Section 21 of the act of December 20, 1862, by striking out the proviso therein.

SEC. 7. Any corporation desiring at any time to remove its principal place of business into some other county in the Territory, shall file in the office of the county clerk of such county a certified copy of its certificate of incorporation. If it is desired to remove its principal place of business to some other city, town, or locality within the same county, publication shall be made of such removal, at least once a week for four weeks, in the newspaper published nearest to the city, town, or locality, from which the principal place of business of such corporation is desired to be removed. The formation or corporate acts of no corporation heretofore formed under this act shall be rendered invalid by reason of the fact that its principal place of business may not have been designated in its certificate of incorporation; *provided*, that within three months from the passage of this act, such corporation shall cause publication to be made once a week for at least four weeks in the newspaper published nearest to the city, town, or locality, and where the principal place of business of such corporation has in fact been located, designating the city, town, or locality, and county, where its principal place of business shall be located. On compliance with the provisions of this section in the several cases herein mentioned, the principal place of business of any corporation shall be deemed established or removed at or to any designated city, town, or locality, and county in the Territory.

Section 27 of Act of December 20, 1862, repealed by this section, and this substituted in its place, page 96.

SEC. 8. In corporations already formed, or which may hereafter be formed under this act, where the amount of the capital stock of such corporation consists of the aggregate valuation of the whole number of feet, shares, or interests in any mining claim in this Territory, for the working and development of which such corporation shall be or have been formed, no actual subscription to the capital stock of such corporation shall be necessary; but each owner in said mining claim shall be deemed to have subscribed such an amount to the capital stock of such corporation as under its by-laws will represent the value of so much of his interest in said mining claim, the legal title to which he may by deed, deed of trust, or other instrument, vest or have vested

in such corporation for mining purposes; such subscription to be deemed to have been made on the execution and delivery to such corporation of such deed, deed of trust, or other instrument; nor shall the validity of any assessment levied or which may hereafter be levied by the Board of Trustees of such corporation be affected by reason of the fact that the full amount of the capital stock of such corporation, as mentioned in its certificate of incorporation, shall not have been subscribed as provided in this section; *provided*, that the greater portion of said amount of capital stock shall have been subscribed; and *provided*, further, that this section shall not be so construed as to prohibit the stockholders of any corporation formed or which may be formed for mining purposes, as provided in this section, from regulating the mode of making subscription to its capital stock, and calling in the same by by-laws or express contract.

Stats. 1864, p. 49.

Encouragement of Mining.

SECTION 1. Mining companies, when incorporated, may bring suits against any person not a member of such corporation, owning in the said mining claim, who shall refuse or neglect to pay his proportion of moneys actually expended, or indebtedness assumed by such corporation for the actual development of said mining claim.

SEC. 2. Before such suit shall be instituted, notice shall be published in some newspaper in the county where the mining claim is located. If no newspaper is published therein, then in one published in the nearest adjoining county once a week for four weeks, specifying: First. The amount of money actually expended or indebtedness assumed. Second. The amount due, etc. Third. The intention of the corporation to institute suit for the same. Where personal service is made, only ten days' notice shall be required before instituting suit.

SEC. 3. It must be proved on the trial of such suit that the amount of money expended or indebtedness assumed by the corporation was expended in the necessary working and actual development of said mining claim. The quantity of interest owned by the defendant at the time the money was expended or indebtedness assumed. That the defendant was duly notified of the amount due, and the intention of plaintiff to institute suit therefor, and defendant's neglect or refusal to pay the same.

SEC. 4. The amount of money expended or indebtedness assumed by such corporation as the proportion due from any tenant in common, joint tenant, etc., for the necessary

working and development of such mining claim, shall be a lien in favor of such corporation. Such interest may be sold as provided for sales of real estate on execution, and redeemed as provided for the redemption of real property.

SEC. 5. Applies only to companies in the Territory.

Stats., 1864, p. 53.

Repealed by Act of March 7, 1865.

Grant of Way to A. Sutro to construct a Mining and Draining Tunnel.

SECTION 1. A. Sutro, and his associates, successors and assigns, shall, for the next fifty years ensuing, from and after the approval of this act, have, possess, and enjoy the exclusive privilege of the right of way, and to run, construct and excavate a tunnel running into the Comstock lode, from any point to be selected in the foothills of the Carson River Valley, within the boundaries of Lyon county, and between Corral Cañon and Webber Cañon; also, to sink mining shafts along the line, or course of said tunnel, and connecting with the same at such points as may be selected by said parties; *provided, however*, the right of way hereby granted for said tunnel shall in no manner or in any wise interfere with any rights heretofore acquired in and to the said Comstock lode, or any other lode along the line, or in the vicinity of said tunnel, or any rights of property heretofore acquired by any person or corporation; and, *provided, further*, that said right of way for said tunnel shall in no wise interfere with the rights of miners, according to the laws and customs of this State.

SEC. 2. That the object of said tunnel being for the purpose of draining the Comstock lode, and all other lodes along its line of direction or course, and for the discovery and development of other lodes through which the same may pass, and for the general purpose of advancing the mining interest of this State; the rate, price or sum of money to be charged for the benefit derived by the persons, companies or corporations along the line of said tunnel, and others who may be benefited by the drainage of their mines or lodes, and freeing the same from the flow of water therein, shall be whatever sum or sums of money, or stock, which may or shall be agreed upon by and between the corporations, person or persons to be benefited as aforesaid; and the grantee herein, his associates, successors or assigns, and the said A. Sutro, and his associates, successors and assigns, shall have the right to receive and collect all sums of money, or stock, which said persons, companies or corporations shall contract to pay; and in default of the payment of the same according to the tenor and condition of such contract or contracts, the said A.

Sutro, and his associates, their successors or assigns, shall have the right, and are hereby authorized and empowered to sue for and collect the same in any court of competent jurisdiction in this State.

SEC. 3. It shall be the duty of said A. Sutro, his associates, their successors or assigns, to commence the work of said tunnel in advancing the objects aforesaid, within one year from the passage of this act, and to complete the same within eight years.

Stats., 1864-5, p. 128.

Encouragement of Mining.

SECTION 1. When three or more persons, owning or claiming as joint tenants, tenants in common, or coparceners, a majority of the number of feet, shares or interests, in any mining claim in this State, shall have formed, or shall hereafter form themselves into a corporation or organized association, for the purpose of working and developing such mining claim, and shall actually proceed to work and develop the same. Such corporation or association, may, without demand, except by commencement of action, institute in any court of competent jurisdiction, suit, in its corporate or associate name, as upon an implied contract for the payment of money, against any person not a stockholder in, or member of such corporation or association, owning or claiming to own in said mining claim, as joint tenant, tenant in common, or coparcener, for his or her proportion of the money actually expended, or indebtedness assumed by such corporation or association, in the actual and necessary working and development of said mining claim.

SEC. 2. The proportion of money expended, or indebtedness assumed by such corporation or association, and for the payment of which such joint tenant, tenant in common, or coparcener, is made liable under the provisions of this act, shall be deemed such an amount of money or indebtedness, as bears the same proportion to the whole amount of money expended, or indebtedness assumed, as the interest in the mining claim, owned or claimed by such joint tenant, tenant in common, or coparcener, bears to the whole of the mining claim.

SEC. 3. Any number of such joint tenants, tenants in common, or coparceners, may be joined as parties defendant in any suit instituted under the provisions of this act; but each defendant shall be entitled to plead separately; and when the cause shall be tried by jury, as many of the separate issues of fact as may be agreed upon by the parties may be determined by the same jury. Judgment shall be rendered for or against each defendant separately, and the

costs of suit may be apportioned among the several parties defendant, against whom judgment may be rendered, in such manner as to the court may appear just and equitable; *provided*, that in all cases the defendant, prior to the institution of suit under the provisions of this act, shall be entitled to three week's notice of the intention of such corporation or association to institute such suit, which notice may be either personally or by the publication in some newspaper published in the county within which such mining claim is located; and if none be published in said county, then in the nearest adjoining county.

SEC. 4. The summons shall specify: First, the amount of money actually expended, or indebtedness assumed, by such corporation or association in the actual and necessary working and development of said mining claim; and, second, the amount due from each joint tenant, tenant in common, or coparcener, as his or her proportion of such money or indebtedness.

SEC. 5. All suits instituted under the provisions of this act shall be brought in the county within which the mining claim may be located; and where the defendant is a non-resident of the county within which suit is brought, but a resident of the State, service of summons may be had personally, as in other cases, or by publication in the same manner as provided by law for service of summons by publication where the defendant is a non-resident of the State and a resident of the State of California; and all of the provisions of law regulating proceedings in other civil cases shall, so far as the same are applicable, apply to suits instituted under this act.

SEC. 6. The amount of money expended, or indebtedness assumed by such corporation or association, as the proportion due from such joint tenant, tenant in common, or coparcener, for the actual and necessary working and development of said mining claim, shall be a lien in favor of such corporation or association upon the interest of such joint tenant, tenant in common, or coparcener, in such mining claim, from the time such money was expended, or indebtedness assumed, by such corporation or association; which lien shall bind such interest from the time of such payment or assumption as against any subsequent purchaser, mortgagee, or other person acquiring a lien upon, or title to, or interest in the same. Suit may be instituted against the person owning or claiming such interest at the time of the commencement of the action for the recovery of the whole amount due upon such interest; and all judgments rendered in any action instituted under the provisions of this act, and any execution issued thereon, shall bind and run against such interest, and no other property of the defendant shall be subject to execution on said judgment.

SEC. 7. All sales of any interest in a mining claim under an execution issued on a judgment obtained in any suit instituted under the provisions of this act shall be absolute, and the purchaser shall be entitled to the immediate possession of the interest purchased by him at such sale.

SEC. 8. An act entitled "An Act for the encouragement of mining," passed by the Legislative Assembly of the Territory of Nevada, approved February twentieth (20th), eighteen hundred and sixty-four (1864), is hereby repealed, and all rights of action accrued under said act shall be commenced and prosecuted under the provisions of this act; *provided*, that such repeal shall not in any manner effect [affect] any action already commenced under said act; but all such actions shall be prosecuted thereunder, the same as though said act were not hereby repealed.

Stats. 1864-5, p. 228.

Taxation of Mines.

SEC. 99. An *ad valorem* tax of one hundred cents on each one hundred dollars valuation (after the deduction for cost of extracting and reducing as provided in this act) is hereby levied and directed to be assessed, collected and paid every three months, in gold or silver coin of the United States, or in foreign coin at the value fixed by the laws of the United States therefor, for State and county purposes, on all ores, quartz, or minerals from which gold and silver, or either, is extracted by any mill, arastra, smelting furnace, or any process whatever in this State. All of said ores, quartz or minerals, shall be assessed as follows: From the gross return or assessed value per ton, of all ores, quartz or minerals from which gold and silver, or either, are extracted in this State, there shall be deducted the sum of twenty dollars per ton; and upon seventy-five per cent. of the remainder (after such deduction is made aforesaid) shall be taxed and levied and collected, as provided in this act.

Amended February 24, 1866, and April 2, 1867.

SEC. 100. The valuation of all ores, quartz, or minerals bearing gold or silver, or either, proposed to be sent out of this State for sale or reduction, shall be established to the satisfaction of the assessor, by the owner or owners, the agent or person having charge and control of such ores, quartz, or minerals, from assay or otherwise; and such ores, quartz, or minerals, shall be assessed and taxed the same as ores reduced in this State; *provided*, that when the owner or owners, his or their agent or agents, or persons having charge or control of such ores, quartz, or minerals, aforesaid, refuses or neglects, upon the demand of the assessor or his deputy, to establish the value thereof to the said as-

essor's, or his deputy's, satisfaction, then for the purposes of this act, all such ores, quartz, or minerals, shall be assessed at five hundred dollars per ton, and no deduction shall be made from that valuation, or the cost of reducing said ores, quartz, or minerals.

SEC. 101. Between the first Monday in January and the first Monday in February, also between the first Monday in April and the first Monday in May, also between the first Monday in July and the first Monday in August, also between the first Monday in October and the first Monday in November, in each year, the county assessor shall ascertain, by diligent inquiry and examination, the name, title, and location of all mines and mining claims in his county, from which gold and silver, or either, is extracted; and also the names of all persons, corporations, associations, companies, or firms, owning, claiming, or having possession or control thereof; and he shall then ascertain and determine, as provided in this act, the number of tons, and the value per ton of all ores, quartz, or minerals extracted for reduction from the said mines or mining claims as aforesaid; and shall list and assess the same to the person, firm, corporation, association, or company extracting the ores or minerals as aforesaid, or owning or having possession, charge, or control of said mine or mining claim. For the purpose of enabling the assessor to make such assessments, he shall demand from each person and firm, and from the president, superintendent, treasurer, or managing agent of each corporation, association, or company engaged in extracting minerals, quartz, or ores, bearing gold and silver, or either, a statement, under oath or affirmation, of the total amount and value of all gold and silver bars or bullion received or produced from his or their mines or mining claim, from reduction of ores, quartz, or minerals; also, the moneys received from the sale of ores, quartz, or minerals, from his or their mines or mining claim, for the three months next preceding such demand of the assessor; also, the number of tons from which said amounts were received or produced; also, the value and number of tons shipped from the State for the three months next preceding. The books relating to or used in the transaction of the business of any person or firm, company, association, or corporation; engaged in extracting ores, quartz, or minerals, bearing gold or silver, or either, for reduction, shall, on demand of the assessor, or his deputy, be open to his inspection. If any person, superintendent, officer, or agent, shall neglect or refuse, on demand of the assessor, or his deputy, to give, under oath or affirmation, the statement required by this section, or shall neglect or refuse to give, on demand, access to the assessor, or his deputy, to the books as aforesaid, such per-

son, superintendent, officer, or agent, shall be guilty of a misdemeanor, and shall be arrested on complaint of the assessor, or his deputy, and on conviction thereof, before a justice of the peace, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than three months, or by both such fine and imprisonment.

SEC. 102. In case of the neglect or refusal of the person or firm, or president, superintendent, treasurer or managing agent of any corporation, association, firm or company, to give, under oath or affirmation, the statement required in the preceding section, the assessor, or his deputy, may make an estimate from the best sources within his reach, of the number of tons, the value per ton of all ores, quartz, minerals bearing gold and silver, or either, extracted by such person, firm, corporation, association or company, for preceding quarter, and assess the same to them, and such assessment shall be as binding, lawful and effectual as if made upon a sworn or affirmed statement.

SEC. 103. The owner, agent or person owning, or having charge or control of any mill, arastra, smelting-furnace or any process by which gold and silver, or either, are extracted, shall keep, or cause to be kept, an accurate account of the number of tons of ores, quartz or minerals reduced or smelted, the name of the mine, or mining claim, from which said ore, quartz or mineral was taken, the amount and value of the bullion derived by smelting or reduction from the ore, quartz or mineral from such mine or mining claim, and shall, upon demand of the assessor, or his deputy, give him a statement of the same, under oath or affirmation. And if the owner, agent or person, as aforesaid, neglect or refuse to give the statement as required in this section, the assessor, or his deputy, shall have the right to demand, and it is hereby made his duty to demand access to, and inspection of all books of said owner, agent, or persons owning or having the charge or control of any mill, arastra, smelting furnace, or other process by which gold and silver, or either, are extracted, relating to the business of such mill, arastra, smelting furnace or other process, as aforesaid, and if such owner, agent or person, as aforesaid, shall, on demand of the assessor, or his deputy, neglect or refuse to give a statement, under oath or affirmation, as provided in this section, or refuse to give access to the assessor or his deputy, to the books, as aforesaid, such owner, agent or person shall be guilty of a misdemeanor, and shall be arrested on complaint of the assessor, or his deputy, and on conviction before a justice of the peace shall be punished by a fine of not less than one hundred, nor more than five

hundred dollars, or by imprisonment in the county jail for not less than twenty nor more than ninety days, or by both such fine and imprisonment.

SEC. 104. From the statements or information so received, it is hereby made the duty of the assessor to make out immediately a certified statement or statements of the number of tons of gold and silver bearing ores, quartz or minerals, with the yield thereof per ton, reduced by such mill, arastra, smelting furnace, or other process, from the mine or mining claim of any person, firm, corporation, association or company, situated in any other county in this State, stating particularly therein the number of tons, and the value per ton so reduced for such persons, firm, corporations, association or companies, and transmit such certified statement, immediately by mail or express, to the assessors of the county wherein the mine or mining claim of such person, firm, corporation, association or company is located.

SEC. 105. The proceeds of all mines shall be assessed and taxed in the county wherein the mine or mines are located.

SEC. 106. It shall be the duty of the assessor to prepare and complete, quarterly, on or before the second Monday in February, May, August, and November, in each year, a tax-list or assessment-roll, which shall be known and designated as the "Assessment-Roll of the proceeds of the mines," alphabetically arranged in a book or books furnished him by the Board of County Commissioners for that purpose; in which book or books shall be listed or assessed the proceeds of all the mines in his county, as provided in this Act, and in said book or books he shall set down, in separate columns: First, the names of the owners, firms, incorporated companies or associations engaged in the business of extracting ores, quartz or minerals bearing gold and silver, or either; and if any owner, firm, incorporated company, association, superintendent, or agent, shall refuse to make the statement, or refuse to the assessor or his deputy access to their books, as provided in this Act, that fact shall be noted under his name, opposite the name of the owner, firm, incorporated company or association. The assessor shall, as particularly as possible, give a description of the mine or mining claim from which the ores, quartz or mineral assessed was extracted. Second, the number of tons of gold and silver bearing ores, quartz or minerals extracted by such owners, firms, incorporated companies or associations for the preceding quarter year. Third, the assessed value per ton; *provided*, that ore, quartz or mineral whose value does not exceed twenty dollars per ton shall not be assessed, and shall not be included by the assessor, or by the owners, firms, incorporated companies or associations, their superintendents or agents, in the statements required

by this Act. Fourth, the total assessed value. Fifth, the amount, after the deduction as provided in this Act, upon which such taxes are levied.

The form of the quarterly assessment roll shall be substantially as follows:

Quarterly Assessment Roll of the Proceeds of the Mines for the Quarter Ending —.

County proportion of Tax.....	State proportion of Tax.....	Am't upon which the Tax is levied.	Total value.....	Value per Ton ...	No. of Tons extracted for the three months ending —	Description of Location of Mine...	Name of Owner, Company, etc....
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Amended by act of April 2, 1887. .

SEC. 107. On or before the second Mondays in February, May, August, and November of each year, the assessor shall complete his tax list, or assessment roll, for the preceding three months respectively, and shall attach his certificate thereto, and deliver it, and the sworn or affirmed statements provided for in this act, to the county auditor, who shall examine said assessment roll, and ascertain that the assessments therein entered comply with the sworn or affirmed statements relating thereto. And in case of the neglect or refusal of any person, firm, corporation, association or company to give the statement, as herein provided, that that fact is noted as heretofore provided, he shall then proceed to extend on such quarterly assessment roll the taxes, as provided in this act, on the proceeds of the mines. He shall add up the columns of valuation, as set down in the assessment roll, and shall prepare a statement (which shall be under oath), of the total number of tons of ore, quartz or mineral, bearing gold and silver, listed upon said assessment roll, the total value thereof, the total amount on which the taxes were levied, and the total amount of taxes on the same, which statement he shall immediately forward to the controller of state.

SEC. 108. After adding up the columns of valuation and extending the taxes, as provided in the preceding section, the county auditor shall attach his certificate thereto, and shall, on or before the fourth Mondays in February, May, August and November in each year, deliver the assessment roll for the preceding quarter respectively to the county assessor for collection, and shall charge the assessor with the full amount of taxes levied.

SEC. 109. Upon receiving the assessment roll of the taxes levied upon the proceeds of the mines, as provided in this act, for any quarter, the assessor shall forthwith give notice, by publication in one newspaper, if there be any published in his county, and if none be published, then by posting notices in three public and conspicuous places in his county, that the taxes on the proceeds of the mines, for the preceding quarter, are due and payable, and that the laws with regard to their collection will be strictly enforced, and shall proceed to collect the taxes by demanding the same (either in person or by deputy), of every person, firm, corporation, association or company against whom they are assessed, his or their agent or agents, or the president, treasurer or trustee of any incorporated company so assessed. He shall use all due diligence, and make personal demand for taxes, if possible, on all persons, firms, corporations or companies owing the same, on or before the second Mondays in March, June, September and December; after which he need not make such personal demand, but shall retain the assessment roll in his office, and receive the taxes offered to be paid thereon until the close of his official business on the third Mondays in March, June, September and December in each year. After which, it shall not be lawful for him to receive or receipt for any taxes due on the assessment for the preceding quarter respectively; but he shall immediately ascertain the total amount of taxes then delinquent on the assessment of the immediate preceding quarter, and file in the office of the auditor a statement of said amounts, verified by the oath of himself or deputy, and shall proceed to make out a copy of the quarterly assessment roll as far as relates to delinquent taxpayers. Said list shall be verified by the oath of himself or deputy, and shall be by him filed in the office of the county auditor, as follows: The delinquent list for the quarter commencing January first and ending March thirty-first, shall be filed on the fourth Monday in June in each year; the delinquent list for the quarter commencing April first and ending June thirtieth, shall be filed on the fourth Monday in September in each year; the delinquent list for the quarter commencing July first and ending September thirtieth, shall be filed on the fourth Monday in December in each year; and the delinquent list for the quarter commencing October first and ending December thirty-first, shall be filed on the fourth Monday in March in each year.

SEC. 110. At any time while the assessment roll of any quarter is in the hands of the assessor for collection, the assessor may seize upon the personal property, or so much thereof as may be sufficient to satisfy the taxes and costs of any person, firm, corporation, association or company

who shall neglect or refuse to pay such taxes for one week after such demand of the assessor or his deputy; and shall post a notice of such seizure, with a description of the property, and the time and place whereon it will be sold, in three public places in the township or precinct where it is seized; and shall, at the expiration of five days, proceed to sell at public auction, at the time and place mentioned in the notice, to the highest bidder, for cash, a sufficient quantity of such property to pay the taxes and costs incurred. And for this service the assessor shall be allowed, from the party neglecting or refusing as aforesaid, a fee of three dollars and the same mileage a sheriff would be entitled to receive for traveling to the place to make a levy; and upon payment of the purchase-money, he shall deliver to the purchaser the property sold, together with a certificate of the sale, and the amount of the taxes or assessment and expenses thereon for which the property was sold; whereupon the title to the property so sold shall vest absolutely in the purchaser.

SEC. 111. If any person shall willfully make or give under oath or affirmation a false statement to the assessor, such person shall be deemed guilty of perjury, and upon conviction thereof shall be punished therefor, as is by law provided for the punishment of perjury.

SEC. 112. Whenever any tax is paid to the assessor on the assessment of the proceeds of the mines, he shall mark the word "paid" opposite the name of the person, firm, corporation, association or company paying such tax, and shall give a receipt therefor, specifying the number of tons, and the value thereof, assessed to such person, firm, corporation, association or company, for the quarter for which such assessment roll was made out, with the amount of the tax assessed thereon.

SEC. 113. On the fourth Mondays in March, June, September and December, in each year, the assessor shall attend at the office of the county auditor with the assessment of the proceeds of the mines for the quarter preceding respectively; and the auditor shall then and there administer an oath to the assessor, which shall be written and subscribed on his assessment roll, to the effect that each person, firm, corporation, association or company, and all proceeds of the mines assessed in said roll on which the taxes have been paid, has the word "paid" marked opposite the name of such person, firm, corporation, association or company; and the auditor shall then foot up the amount of taxes remaining unpaid, and credit the assessor with the amount, and shall then make a final settlement with the assessor for all taxes charged against him on account of said assessment-roll. Within ten days after

such final settlement, the auditor shall transmit by mail, or otherwise, to the controller of State a statement in such form as the controller may direct, of the number of tons of gold and silver bearing ore, quartz or mineral, and the value thereof, on which taxes have been levied, and the total amount of taxes delinquent thereon. For the services required by this section, the assessor shall receive no fees or compensation whatever.

SEC. 114. On Monday of each week, while the assessment roll of the proceeds of the mines shall be in the hands of the assessor for collection, the assessor shall pay over to the county treasurer, after deducting the percentage as allowed in this act, all money coming into his hands from taxes on said assessment roll, taking duplicate receipts therefor, one of which he shall file with the county auditor, who shall credit him and charge the treasurer therewith.

SEC. 115. If any assessor shall refuse, for the period of five days, to make the payments and settlements with the treasurer and auditor of his county, as in this act specified, he and his sureties shall be held liable to pay the full amount of taxes charged upon the assessment roll for that quarter; and the district or prosecuting attorney, of his own volition, or on being instructed to do so by the controller of State, or the board of county commissioners of the county, shall cause suit to be brought against such assessor and his sureties for the full amount due on the auditor's books, on account of such quarterly assessment; and if such suit is brought, no credit or allowance whatever shall be made to such refusing or neglecting assessor for the delinquent taxes outstanding.

SEC. 116. The board of county commissioners of each county shall exact an additional bond from the assessor in such penal sum (not to exceed twenty thousand dollars) as the said board shall believe to be necessary to insure the prompt and faithful payment to the county treasurer of all moneys received by such assessor for taxes on the proceeds of the mines.

SEC. 117. The moneys arising from the tax from the proceeds of the mines, as provided in this act, after paying the expenses of assessing and collecting the same, shall be paid into the county treasury, one-half for the benefit of the State, and one-half shall go into the general fund of the county.

Amended by Act of April 2, 1867.

SEC. 118. Every tax levied under the provisions or authority of this act, on the proceeds of the mines, is hereby made a lien on the mines or mining claims, from which ores, quartz, or minerals, bearing gold and silver, or either,

is extracted for reduction, which lien shall attach on the first days of January, April, July, and October, of each year, for the quarter year commencing on those days respectively; and shall not be satisfied or removed until the taxes, as provided in this act, on the proceeds of the mines, are all paid, or the title to said mines or mining claims has absolutely vested in a purchaser, under a sale for the taxes levied on the proceeds of such mines or mining claims.

Amended by Act of April 2, 1867.

SEC. 121. The auditor shall, within three days after receiving the delinquent list on the assessment of the proceeds of the mines for any quarter year, deliver the same to the district or prosecuting attorney. The district or prosecuting attorney shall be held responsible on his official bond, given for the faithful performance of his duties in collecting State and county taxes, for any wrong doing in collecting the taxes on the proceeds of the mines.

SEC. 122. The district or prosecuting attorney of the several counties of this State, are hereby authorized and directed, immediately on receiving the delinquent list from the auditor, as provided in the preceding section, to commence action in the name of the State of Nevada, against the person, firm, incorporated company or association so delinquent, and against the mines or mining claims from which the gold and silver bearing ores, quartz, or minerals were extracted and assessed so delinquent. Such action may be commenced in the county where such assessment is made, before any justice of the peace or court in said county, having jurisdiction thereof, and such jurisdiction shall be determined solely by the amount of delinquent taxes sued for, not regarding the location of the mine or mining claim as to township, nor the residence of the person, firm, incorporated company or association, as to town, township, county or State.

SEC. 123. The complaint in said action may be as follows:

STATE OF NEVADA,	} Title of Court.
County of —	

THE STATE OF NEVADA

v.

A. B. & Co., the possessory claim to the mine or mining claim (describing it).	}

The State of Nevada, by C. D., district or prosecuting attorney of the county of —, complains of A. B., and also the following mine or mining claim (describing the mine or mining claim with the same particularity as in actions

of ejectment), and for cause of action says: that between the first Monday in — (here insert the time in which the assessor is directed to make the assessment for the quarter for which the taxes are delinquent), in the — county of —, in the State of Nevada. E. F., then and there being county assessor of said county, did duly assess and set down on an assessment roll, for the quarter year commencing the first day of —, and ending the — day of —, — tons of gold and silver bearing ore, quartz, or mineral, extracted from the mine or mining claim designated and described in this complaint; said ore, quartz, or mineral was assessed at — dollars per ton, from the sworn (or affirmed) statement furnished by —, his (or their, as the case may be) agent (or superintendent), to the assessor (or in case no statement was furnished the assessor, then the assessed value may be stated from the best source of information within the assessor's reach); that said A. B. was then and there the owner of said possessory mine or mining claim, and did extract therefrom the gold and silver bearing ore, quartz, or mineral assessed, and upon which the taxes are now delinquent and unpaid. And that said ore, quartz, or mineral was duly assessed to him, and upon it there has been duly levied, by the operation of the law taxing the proceeds of the mines, for the quarter commencing the first day of —, in the year of our Lord one thousand eight hundred and —, a State tax of — dollars, and a county tax of — dollars, amounting in the whole to — dollars, all of which was duly assessed and levied against the proceeds of the mines or mining claim as aforesaid. Wherefore, plaintiff prays judgment against said A. B. for the sum of — dollars, and a separate judgment against the possessory mine or mining claim for the sum of — dollars, the whole of said tax on the proceeds of the possessory mine or mining claim herein described, per quarter year delinquent; and for such further judgment as to justice belongs, and for all costs subsequent to the assessment of said taxes, and the commencement of this action.

C. D., District or Prosecuting Attorney,
County of —.

SEC. 124. So far as they are applicable, and not otherwise expressly provided in this act, the answer to the complaint, as provided in the preceding section, the means and manner of serving the papers, fees of the district or prosecuting attorney and officers serving papers, and in all other matters concerning the collection of delinquent taxes on the proceeds of the mines, the laws for the collection of taxes on real estate and personal property, as provided in

this act, shall apply to the collection of delinquent taxes on the proceeds of the mines.

SEC. 125. The several county treasurers in this State shall settle for and pay over all moneys coming into their hands from the tax on the proceeds of the mines and going to the State, at the same time and in the same manner as is provided by law for settling and paying over the State's proportion of moneys arising from the tax on real and personal property or other sources of State revenue.

Stats. 1864-5, p. 306.

Defending Possessory Action on Public Lands—Mineral Lands.

SECTION 1. Any person now legally occupying and settled upon, or who may hereafter occupy or settle upon any of the public lands in this State, for the purpose of cultivating or grazing the same, may commence and maintain any action for interference with, or injuries done to his or her possession of said land, against any person or persons so interfering with or injuring such land or possession; *provided*, that if the lands so occupied and possessed contain mines of any of the precious metals, the possession or claim of the person or persons occupying the same, for the purposes aforesaid, shall not preclude the working of such mines by any person or persons desiring so to do, as fully and unre-servedly as they might or could do had no possession or claim been made for grazing or agricultural purposes.

Stats. 1864-5, p. 343.

Corporations.

SECTION 1. Corporations for manufacturing, mining, milling, ditching, mechanical, chemical, building, navigation, transportation, and farming purposes, may be formed according to the provisions of this act, such corporations and the members thereof being subject to all the conditions and liabilities herein imposed, and to none others.

Amended by Act of March 1, 1866, p. —; and February 27, 1869, p. —.

SEC. 2. Any three or more persons who may desire to form a company for any one or more of the purposes specified in the preceding section, may make, sign and acknowledge, before some person competent to take the acknowledgment of deeds, and file and have recorded in a book provided for that purpose, in the office of the clerk of the county in which the principal place of business of the company is intended to be located, and a certified copy, under the hand of the clerk and the seal of the court of said county, in the office of the secretary of State, a certificate, in which shall be stated the corporate name of the company, the object for which the same shall be formed,

the amount of its capital stock, the time of its existence, not to exceed fifty years, the number of shares of which the capital stock shall consist, the number of trustees and their names, who shall manage the concerns of the company for the first six months, and the name of the city, town, or locality, and county, in which the principal place of business of the company is to be located.

SEC. 3. A copy of any certificate of incorporation filed in pursuance of this act, and certified by the county clerk of the county in which it is filed, or his deputy, or by the secretary of State, shall be received in all the courts and places as *prima facie* evidence of the facts therein stated.

SEC. 4. When the certificate shall have been filed, the persons who shall have signed and acknowledged the same, and their successors, shall be a body corporate and politic, in fact and in name, by the name stated in their certificate, and by their corporate name have succession for the period limited, and power: First. To sue and be sued in any court having competent jurisdiction; Second. To make and use a common seal, and to alter the same at pleasure; Third. To appoint such officers, agents and servants as the business of the corporation shall require, to define their powers, prescribe their duties, and fix their compensation; Fourth. To require of them such security as may be thought proper for the fulfillment of their duties, and to remove them at will, except that no trustees shall be removed from office unless by a vote of a majority of the stockholders, as hereinafter provided; Fifth. To purchase, hold, sell and convey such real and personal estate as the purposes of the corporation shall require; Sixth. To make by-laws not inconsistent with the Constitution of this State, or Constitution of the United States; Seventh. The management of its property, the regulation of its affairs, the transfer of its stock, and for carrying on of all kinds of business within the objects and purposes of the company, as expressed in its articles of incorporation. Every corporation in this State shall have the power, whenever at any assessment sale of the stock of said corporation no person will take the stock and pay the assessment thereon, to purchase such stock and hold the same for the benefit of the corporation. All purchases of its own stock by any corporation in this State which have been previously made at assessment sales whereat outside parties have failed to bid, and which purchases were for the amount of assessments due, and costs or otherwise, shall be held valid, and as vesting the legal title to the same in said corporation. The stock so purchased shall be held subject to the control of the remaining stockholders, who may make such disposition of the same as they may deem fit. Whenever any

portion of the capital stock of any corporation is held by the said incorporation by purchase, a majority of the remaining shares of stock in said incorporation shall be held to be a majority of the shares of the stock in said incorporated company, for all purposes of election or voting on any question before a stockholders' meeting.

SEC. 5. The corporate powers of the corporation shall be exercised by a board of not less than three trustees, who shall be stockholders in the company, who shall, before entering upon the duties of their office, respectively take and subscribe to an oath as prescribed by the laws of this State, and who shall, after the expiration of the term of the trustees first selected, be annually elected by the stockholders, at such time and place within the State, and upon such notice, and in such manner, as shall be directed by the by-laws of the company; but all elections shall be by ballot, and each stockholder, either in person or by proxy, shall be entitled to as many votes as he or she may own, or represent by proxy, shares of stock, and the person or persons receiving the greatest number of votes shall be trustee or trustees. It shall be competent at any time for two-thirds of the stockholders of any corporation organized under this act to expel any trustee from office, and to elect another to succeed him. In all cases where a meeting of the stockholders is called for the purpose of expelling a trustee and electing his successor, such notice shall be given of the meeting as the by-laws of the company may require. Whenever any vacancy shall happen among the trustees, by death, resignation, or otherwise, except by removal, and the election of his successor as herein provided, it shall be filled by appointment of the board of trustees.

SEC. 6. If it shall happen at any time that an election of trustees shall not be made on the day designated by the by-laws of the company, the corporation shall not for that reason be dissolved, but it shall be lawful on any other day to hold an election for trustees in such manner as shall be provided for in the by-laws of the company, and all acts of the trustees shall be valid and binding upon the company until their successors shall be elected.

Amended by Act of February 24, 1866.

SEC. 7. A majority of the whole number of trustees shall form a board for the transaction of business, and every decision of a majority of the persons duly assembled as a board shall be valid as a corporate act.

SEC. 8. The first meeting of the trustees shall be called by a notice signed by one or more of the persons named trustees in the certificate, setting forth the time and place of the meeting; which notice shall be either delivered per-

sonally to each trustee, or published at least twenty days in some newspaper of the county in which is the principal place of business of the corporation, or if no newspaper be published in the county, then in some newspaper nearest thereto in the State.

SEC. 9. Whenever the capital stock of any corporation is divided into shares, and certificates thereof are issued, the stock of the company shall be deemed personal estate. Such shares may be transferred by indorsement and delivery of the certificate thereof, such indorsement being by the signature of the proprietor or his or her attorney or legal representative; but such transfer shall not be valid except between the parties thereto, until the same shall have been so entered upon the books of the corporation as to show the names of the parties by and to whom transferred; the number or designation of the shares and the date of the transfer. In all cases in which shares of stock in corporations now existing, or hereafter incorporated under any law of this State, are held or owned by a married woman, such shares may be transferred by her, her agent or attorney, without the signature of her husband, in the same manner as if such married woman were a *feme sole*. All dividends payable upon any shares of stock of a corporation held by a married woman may be paid to such married woman, her agent or attorney, in the same manner as if she were unmarried. And it shall not be necessary for her husband to join in receipt therefor; and any proxy or power given by a married woman, touching any share of stock of any corporation owned by her, shall be valid and be binding, without the signature of her husband, the same as if she were unmarried.

SEC. 10. The stockholders of any corporation formed under this act, may, in the by-laws of the company, prescribe the times, manner and amounts in which the payment of the sums subscribed by them respectively shall be made; but in case the same shall not be so prescribed, the trustees shall have power to demand and call in from the stockholders the sums by them subscribed, at such times and in such manner, payments or installments, as they may deem proper. In all cases notice of each assessment shall be given to the stockholders, personally or by publication, once a week for at least four weeks, in some newspaper published in the county in which the principal place of business of the company is located, and if none be published in such county, then in the newspaper nearest to said principal place of business in the State. If, after such notice has been given, any stockholder shall make default in the payment of the assessment upon the shares held by him, so many of such shares may be sold as will be neces-

sary for the payment of the assessment upon all the shares held by him, her, or them. The sale of said shares shall be made as prescribed in the by-laws of the company, but shall in all cases be made at the office of the company. No sale shall be made except at public auction, to the highest bidder, after a notice of four weeks published as above directed in this section; and at such sale the person who shall pay the assessment so due, together with the expenses of advertising and sale, for the smallest number of shares or portion of a share, as the case may be, shall be deemed the highest bidder.

SEC. 11. Whenever any stock is held by any person as executor, administrator, guardian, or trustee, he shall represent such stock at all meetings of the company, and may vote accordingly as a stockholder.

SEC. 12. Any stockholder may pledge his stock by a delivery of the certificates, or other evidence of his interest, but may nevertheless represent the same at all meetings, and vote as a stockholder.

SEC. 13. It shall not be lawful for the trustees to make any dividend, except from the net profits arising from the business of the corporation; nor to divide, withdraw, nor in any way pay to the stockholders, or any of them, any part of the capital stock of the company, nor to reduce the capital stock unless in the manner prescribed in this act; and in case of any violation of the provisions of this section, the trustees under whose administration the same may have happened, except those who may have caused their dissent therefrom, to be entered at large on the minutes of the board of trustees at the time, or were not present when the same did happen, shall, in their individual and private capacities, be jointly and severally liable to the corporation and the creditors thereof, in the event of its dissolution, to the full amount so divided, withdrawn, or reduced, or paid out; *provided*, that this section shall not be construed to prevent a division and distribution of the capital stock of the company which shall remain after the payment of all its debts, upon the dissolution of the corporation or the expiration of its charter.

Amended by Act of March 3, 1866.

SEC. 14. The total amount of debts of the corporation shall not at any time exceed the amount of capital stock actually paid in, and in case of an excess, the trustees under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at large on the minutes of the board of trustees at the time, and except those not present when the same did happen, shall, in their individual and private capacities, be

liable, jointly and severally, to the said corporation, and in event of dissolution, to any of the creditors thereof, for the full amount of such excess.

SEC. 15. No corporation organized under this act shall, by any implication or construction, be deemed to possess the power of issuing bills, notes, or other evidences of debt, for circulation as money.

SEC. 16. It shall be the duty of the trustees of every company incorporated under this act to keep a book, containing the names of all persons, alphabetically arranged, who are or shall become stockholders of the corporation, and showing the number of shares of stock held by them respectively, and the time when they became the owners of such shares, which book and all other books of the company, during the usual business hours of the day, on every day except Sunday and the legal holidays, shall be open for the inspection of stockholders of the company, at the office of the principal place of business of the company; and any stockholder or creditor of the company may have the right to demand and receive from the clerk, or other officer having the charge of such, a certified copy of any entry therein, or to demand and receive from any clerk, or officer, a certified copy of any paper placed on file in the office of the company, and such book or certified copy shall be presumptive evidence of the facts therein stated, in any action or proceeding against the company, or any one or more of the stockholders.

SEC. 17. If at any time the clerk, or other officer having charge of such book, shall make any false entry, or neglect to make any proper entry therein, or having the charge of any papers of the company, shall refuse or neglect to exhibit the same, or allow the same to be inspected, or extracts to be taken therefrom, or to give a certified copy of any entry, as provided in the preceding section, he shall be deemed guilty of a misdemeanor, and shall forfeit and pay to the party injured a penalty of not less than one hundred dollars, nor more than one thousand dollars, and all damages resulting therefrom to be recovered in an action for debt in any court having competent jurisdiction in the county in which the principal place of business of the corporation is located.

SEC. 18. Any company incorporated under this act may, by complying with the provisions herein contained, increase or diminish its capital stock to any amount which may be deemed sufficient and proper for the purposes of the corporation; but before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of debts and liabilities shall exceed the sum to which the capital is proposed to be diminished, such amount shall be

satisfied and reduced so as not to exceed the diminished amount of the capital.

SEC. 19. Whenever it is desired to increase or diminish the amount of capital stock, a meeting of the stockholders shall be called by a notice signed by at least a majority of the trustees, and published at least eight weeks in some newspaper published in the county where the principal place of business of the company is located; or if no newspaper is published in the county, then in some newspaper nearest thereto in the State, which notice shall specify the object of the meeting, the time and place where it is to be held, and the amount which it is proposed to increase or diminish the capital, and a vote of two-thirds of all the shares of stock shall be necessary to increase or diminish the amount of the capital stock.

SEC. 20. If at a meeting so called a sufficient number of votes have been given in favor of increasing or diminishing the amount of capital, a certificate of the proceedings, showing a compliance with these provisions, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock is to be increased or diminished, shall be made out and signed and verified by the affidavit of the chairman and secretary of the meeting, certified to by a majority of the trustees, and filed as required by the second section of this act; and when so filed, the capital stock of the corporation shall be increased or diminished to the amount specified in the certificate.

SEC. 21. Upon the dissolution of any corporation formed under this act, the trustees at the time of the dissolution shall be trustees of the creditors and stockholders of the corporation dissolved, and shall have power and authority to sue for and recover the debts and property of the corporation, by the name of trustees of such corporation, collect and pay the outstanding debts, settle all its affairs, and divide among the stockholders the money and other property that shall remain after the payment of the debts and necessary expenses.

SEC. 22. Any corporation formed under this act may dissolve and disincorporate itself, by presenting to the district judge of the district in which the office of the company is located, a petition to that effect, accompanied by a certificate of its proper officers setting forth that at a meeting of the stockholders, called for the purpose, it was decided by a vote of a majority of the stockholders to disincorporate and dissolve the incorporation. Notice of the application shall then be given by the clerk, which notice shall set forth the nature of the application, and shall specify the time and place at which it is to be heard, and shall be published in

some newspaper of the county, once a week for eight weeks, or if no newspaper is published in the county, by publication in the newspaper nearest thereto in the State. At the time or place appointed, or at any other time or place to which it may be postponed by the judge, he shall proceed to consider the application, and if satisfied that the corporation has taken the necessary preliminary steps and obtained the necessary vote to dissolve itself, and that all claims against the corporation are discharged, he shall enter an order declaring it dissolved.

SEC. 23. Any corporation desiring at any time to remove its principal place of business into some other county in the State, shall file in the office of the county clerk of such county, a certified copy of its certificate of incorporation. If it is desired to remove its principal place of business to some other city, town, or locality within the same county, publication shall be made of such removal at least once a week for four weeks in the newspaper published nearest to the city, town or locality, from which the principal place of business of such corporation is desired to be removed. The formation or corporate acts of no corporation heretofore formed under this act shall be rendered invalid by reason of the fact that its principal place of business may not have been designated in its certificate of incorporation; *provided*, that within six months from the passage of this act such corporation shall cause publication to be made once a week for at least four weeks, in the newspaper published nearest to the city, town, or locality where the principal place of business of such corporation has in fact been located, designating the city, town, or locality, and county where its principal place of business shall be located. On compliance with the provisions of this section, in the several cases herein mentioned, the principal place of business of any corporation shall be deemed established or removed at, or to, any designated city, town, or locality and county in the State.

SEC. 24. In corporations already formed, or which may hereafter be formed under this act, where the amount of the capital stock of such corporation consists of the aggregate valuation of the whole number of feet, shares or interest in any mining claim in this State, for the working and development of which such corporation shall be, or has been formed, no actual subscription to the capital stock of such corporation shall be necessary; but each owner in said mining claim shall be deemed to have subscribed such an amount to the capital stock of such corporation as under the by-laws will represent the value of so much of his or her interest in said mining claim, the legal title to which he or she may by deed, deed of trust, or other instrument, vest,

or have vested in such corporation, for mining purposes; such subscription to be deemed to have been made on the execution and delivery to such corporation of such deed, deed of trust, or other instrument; nor shall the validity of any assessment levied, or which may hereafter be levied by the board of trustees of such corporation be affected by reason of the fact that the full amount of the capital stock of such corporation as mentioned in its certificate of incorporation, shall not have been subscribed as provided in this section; *provided*, that the greater portion of said amount of capital stock shall have been subscribed; and, *provided, further*, that this section shall not be so construed as to prohibit the stockholders of any corporation formed, or which may be formed for mining purposes, as provided in this section, from regulating the mode of making subscription to its capital stock and calling in the same by by-laws or expressed contract.

SEC. 25. All corporations already formed, or which may hereafter be formed under this act for mining purposes, shall be governed by the mining laws of the district where the mine is located; *provided*, that the amount of money so expended in incorporating said company, and the procuring of the necessary books for said corporation, shall be deemed in law as so much money expended in working said claim.

SEC. 26. When any mining incorporation, holding or working any mine or mines, in this State, shall disincorporate under the provisions of this act, the Board of Trustees of said corporation shall convey by deed to the stockholders of said company, all mines and other property of said corporation, in proportion to the amount of stock each stockholder shall hold in the mine, or mines, and other property owned by said corporation, which deed shall be recorded in the office of the county recorder of the county in which the mine is located.

SEC. 27. An act entitled "An Act to provide for the formation of corporations for certain purposes," approved December the twentieth, one thousand eight hundred and sixty-two; also, an act amendatory of, and supplementary to an act entitled "An Act to provide for the formation of corporations for certain purposes," approved December twentieth, one thousand eight hundred and sixty-two, approved February nineteenth, one thousand eight hundred and sixty-four, are hereby repealed.

Stats. 1864-5, p. 359.

Sec. 28, added by Act of February 1, 1867, p. —.

The provisions of this act were extended to all corporations formed prior to its passage, and confirmed proceedings taken for the purpose of disincorporating corporations, and for the purpose of increasing the capital stock of corporations. See Act of January 16, 1866, Stats. 1866, p. 46.

**Security to Persons and Animals from Dangers arising from Mining,
etc.**

SECTION 1. Any person or persons, company or corporation, who shall hereafter dig, sink or excavate, or cause the same to be done, or, being the owner or owners, or in the possession, under any lease or contract, of any shaft, excavation or hole, whether used for mining or otherwise, or whether dug, sunk, or excavated, for the purpose of mining, to obtain water, or for any other purpose, within this State, shall, during the time they may be employed in digging, sinking, or excavating, or after they may have ceased work upon, or abandoned the same, erect, or cause to be erected, good and substantial fences, or other safeguards, and keep the same in good repair, around such works or shafts, sufficient to securely guard against danger to persons and animals, from falling into such shafts or excavations.

SEC. 2. Any person, being a resident of the county and knowing, or having reason to believe, that the provisions of section one of this act are being or have been violated within such county, may file a notice with any justice of the peace or police judge therein, which notice shall be in writing, and shall state: First. The location, as near as may be, of the hole, excavation or shaft; Second. That the same is dangerous to persons or animals, and has been left, or is being worked contrary to the provisions of this act; Third. The name of the person or persons, company or corporation who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein; Fourth. If abandoned, and no claimant; and, Fifth. The estimated cost of fencing, or otherwise securing the same against any avoidable accidents.

SEC. 3. Upon the filing of the notice, as provided for in the preceding section, the justice of the peace, or judge of the police court, shall issue an order directed to the sheriff of the county, or to any constable or city marshal therein, directing such officer to serve a notice, in manner and form as is prescribed by law for service of summons upon any person or persons, or the authorized agent or agents of any company or corporation named in the notice on file, as provided in section two of this act.

SEC. 4. The notice thus served shall require the said persons to appear before the justice or judge issuing the same, at a time to be stated therein, not more nor less than three days from the service of said notice, and show, to the satisfaction of the court that the provisions of this act have been complied with, or if he or they fail to appear, judgment will be entered against him or them for double the amount stated in the notice on file; and all proceedings had therein

shall be as prescribed by law in civil cases; and such persons, in addition to any judgment that may be rendered against them, shall be liable and subject to a fine not exceeding the sum of one hundred dollars for each and every violation of the provisions of this act, which judgments and fines shall be adjudged and collected as provided for by law.

SEC. 5. Suits commenced under the provisions of this act shall be in the name of the State of Nevada, and all judgments and fines collected shall be paid into the county treasury for county purposes.

SEC. 6. If the notice filed with the justice of the peace, or police judge, as aforesaid, shall state that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, said justice of the peace or judge shall notify the board of county commissioners of the county, or either of them, of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced, or otherwise guarded, as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid, first, out of the fines and judgments collected in accordance with the provisions of this act, as other county expenses; *provided*, that nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence, or otherwise guard, any shaft, excavation or hole, unless in their discretion the same may be considered dangerous to persons or animals.

Stats. 1866, p. 59.

Taxation of Mines.

SEC. 99. An ad valorem tax of one hundred cents on each one hundred dollars valuation (after the deduction, for cost of extracting and reducing, as provided in this act), is hereby levied, and directed to be assessed, collected and paid, every three months, for State and county purposes, on all ores, quartz or minerals, from which gold and silver, or either, is extracted by any mill, arastra, smelting furnace, or any process whatever, in this State. All of said ores, quartz or minerals, shall be assessed as follows: From the gross return, or assessed value per ton of all ores, quartz or minerals, from which gold and silver, or either, are extracted in this State, there shall be deducted the sum of twenty dollars per ton; and upon seventy-five per cent. of the remainder (after such deduction is made as aforesaid), shall the taxes be levied and collected as provided in this act.

Amends Sec. 99 of Act of March 9, 1865.

Amended by Act of April 2, 1867.

Stats., 1866, p. 76.

Corporations.

SECTION 1. Corporations for manufacturing, mining, milling, ditching, mechanical, chemical, building, navigation, transportation, farming, banking and for ore-reduction purposes, may be formed according to the provisions of this act, such corporations, and the members thereof, being subject to all the conditions and liabilities herein imposed, and to none others: *provided*, that nothing in this section shall be so construed as to authorize the formation of banking corporations for the purpose of issuing or circulating money or currency within this State, except the Federal currency, and the notes of banks authorized under the laws of the Congress of the United States; nor shall bank notes or paper of any kind be permitted to circulate as money in this State, other than the Federal currency and the notes of banks authorized by the laws of the Congress of the United States.

Amending Sec. 1 of Act of March 10, 1865. Stats., 1866, p. 165.

SEC. 6. If it shall happen, at any time, that an election of trustees shall not be had on the day designated by the by-laws of the company, the corporation shall not for that reason be dissolved, but it shall be lawful, on any other day, to hold an election for trustees, in such manner as shall be provided for in the by-laws of the company, and all acts of the trustees shall be valid and binding on the company until their successors shall be elected. Whenever a majority of any newly-elected board of trustees shall fail to qualify and file in the office of the company their oath of office, within thirty days from the day of their election, it shall be the duty of any officer of the company, upon the request of owners in said company representing not less than one-third of the capital stock of the corporation owned in the company, to call a meeting of the stockholders of said company, which meeting, when assembled, shall have power to elect trustees to supply the place of those who have failed to qualify; but such trustees may qualify and enter upon the duties of their office at any time after the said thirty days, if such meeting for a new election shall not have been called.

Amends Sec. 6 of Act of March 10, 1865. Stats., 1866, p. 79.

SEC. 13. It shall not be lawful for the trustees to make any dividend except from the net profits arising from the business of the corporation; nor to divide, withdraw, nor in any way pay to the stockholders, or any of them, any part of the capital stock of the company; nor to reduce the capital stock, unless in the manner prescribed in this act;

and in case of any violation of the provisions of this section, the trustees under whose administration the same may have happened, except those who may have caused their dissent thereto to be entered at large on the minutes of the board of trustees at the time, or were not present when the same did happen, shall, in their individual and private capacities, be jointly and severally liable to the corporation, and the creditors thereof, to the full amount so divided, withdrawn, or reduced, or paid out; *provided*, that this section shall not be construed to prevent a division and distribution of the capital stock of the company which shall remain, after the payment of all its debts, upon the dissolution of the corporation or the expiration of its charter.

Amends Sec. 13 of Act of March 10, 1865. Stats., 1866, p. 188.

Location and Possession of Mining Claims.

Section 1. How mining districts may be formed.

Section 3 provides for annual and special elections of district recorder.

Section 4. Elections to be by ballot; who entitled to vote.

Section 5. Appointment of inspectors, judges, clerks, etc. Polls when to be opened.

Section 6. Eligibility of district recorder.

Section 7. Fraud, how punished.

Section 8. When office of district recorder may be declared vacant.

Section 9. District recorder to hand over to successor all moneys, etc.

Section 10. Resignation of recorder to be filed with county clerk, who shall notify the district of the vacancy.

Section 11. Recorder may appoint deputy.

Section 12. When recorder to enter on duties.

Section 13. Oath and bond of office.

Section 14. Duties of recorder.

Section 15. To give certified copies of records.

Section 16. All instruments recorded in his office to be filed in the office of the county recorder.

Section 17. Liable on bond for the keeping and payment of moneys.

Section 18. Records to be kept open for inspection.

Section 19. Fees must be paid or tendered.

Section 20. Papers filed considered as recorded.

Section 21. Boundaries of mining claims required to be defined; when claim subject to re-location.

Section 22. Manner of making locations.

Section 23. Number of feet that may be located.

Section 24. What location deemed to include, and what locators are entitled to hold; locations on blind ledges.

Section 25. When location void.

Section 26. Rights of holders of any claim. When owners are entitled to ores; compensation, how determined.

Section 27. Streets or roads not to be obstructed.

Section 28. What shall be deemed a monument for boundaries of a mining claim.

Section 29. Willful destruction of a monument, deemed a misdemeanor; how punished.

Section 30. Terms "foot," "assessment work," "assessment dues," and "assessment year," defined. What deemed evidence of intention to hold claim.

Section 31. All district mining laws repealed by this act. When locations may be made under this act.

Section 32. Amount of assessment required to hold claim.

Section 33 and 34. Work required to be done on claim held under district mining laws before May 1, 1866.

Section 35. District recorder to give receipt for assessment dues.

Section 36. When claim to be considered forfeited.

Section 37. Papers relating to claim in mining district where there is no district recorder, may be filed in the office of the county recorder.

Section 38. When work on mining claims may be postponed.

Section 39. Failure to perform any work on a mining claim as specified in this act, may be done thereafter; effect of, when the act is done after the specified time.

Section 40. When rights are forfeited.

Section 41. All instruments and records filed in the office of the district recorder, to be received in evidence.

Section 42. What to constitute a misdemeanor; punishment.

Section 43. Fees of district recorder.

Section 44. Moneys received for assessment-dues to be paid to the county treasurer.

Section 45. Placer mining subject to such regulations as the miners in the several mining districts shall adopt.

Section 46. In conveying interest in mining claim, must embrace the number of feet conveyed, name of claim and company, and district and county in which it is situated.

Section 47. Storey County exempted from the provisions of this act.

Stats. 1866, p. 141.

Repealed by Act of February 9, 1867.

Condemnation of Property for Mining Purposes.

SECTION 1. Whenever any real estate, or other property in this State is, or becomes necessary for the convenient and successful working of a mining claim, and the person

or persons owning or possessed of the same, refuse to sell or convey the same to any person, mining company or corporation, needing the same for mining purposes, at such valuation or price as such person, company or corporation may deem reasonable and just, said person, mining company or corporation [shall] select one appraiser, and said owner or owners shall select one; *provided*, that if the owner or owners of such property, as aforesaid, shall refuse or fail to appoint or select an appraiser, as provided for in this section, it shall be the duty of the district court to appoint such appraiser, and the two so selected shall select a third, and the three shall appraise the real estate or property sought to be appropriated, after having been first sworn before some officer entitled to administer oaths, to make a true appraisement thereof to the best of their knowledge and ability. Within five days after the report of said appraisers, notice of which shall be given to both parties, the person or persons owning the property shall deliver to the person, company or corporation requiring said property, a good and sufficient deed or conveyance of the premises, upon the payment of the amount named in the report of the appraisers, and upon such person or persons failing so to do, it shall be lawful for the person, company or corporation requiring said property, as aforesaid, to petition the district court, of the judicial district within which said real estate or other property is situated, for a condemnation and sale of the same to such person, mining company or corporation.

SEC. 2. Said petition shall set forth, amongst other things, that said real estate or property, particularly describing the same, is needed by said person, mining company or corporation, for the convenient and successful working of his, or their, or its mining claim or ground, owned or possessed by said person, company or corporation; or for the erection of buildings, roads or works, to be used in working the same, the fair valuation of such real estate, or other property, so needed and sought to be condemned; that petitioner has tendered the amount of its value to the defendant, or defendants, their agents, or other legal representatives, before the commencement of the action, or caused it to be done, that the defendant, or defendants, their agents or legal representatives, have refused to accept the sum so tendered; and shall conclude with a prayer, that the defendant or defendants be summoned to appear in the action, and show cause, if any can be shown, why the said property should not be by the court condemned, and he or they, said defendants, be compelled to convey and deliver a deed of the same to said petitioner or petitioners.

SEC. 3. At the time of the commencement of the action,

the petitioner or petitioners shall pay, or cause to be paid to the clerk of said district court, the sum or amount of money so tendered to the defendant or defendants, before the commencement of the action, and the same shall remain in the custody of the clerk for, and on behalf of the defendant or defendants in said action, and subject to his or their acceptance until the said cause is tried and determined.

Sec. 4. Upon the trial of the cause, either party shall be entitled, if demanded, to a trial by jury, as in civil cases at law; and if, upon the trial, it shall be made satisfactorily to appear that said real estate or other property is necessary for the convenient and successful working of the mining claim or ground mentioned in the petition, in order to entitle the plaintiff or plaintiffs in said action to recover; and if said fact satisfactorily appear from the evidence, said court (if the same is tried without the intervention of a jury), or the jury before whom said cause is tried, shall proceed in the same action to assess and determine the value of said real estate or other property at the time of the institution of said action; and upon the payment of said sum or amount of money by the petitioner to the defendant or defendants in said action, or to the clerk of said court, for his or their use, said petitioner or petitioners shall be entitled to have and recover a judgment and decree of said court in its, his, or their favor, condemning said real estate or other property to his, its, or their, own sole use and possession, and shall direct and decree that the defendant or defendants, or in their stead, as [a] commissioner (to be appointed for such purpose by the court), proceed to make, execute, acknowledge and deliver to the plaintiff or plaintiffs in said action a deed of conveyance thereof.

Sec. 5. Costs in said action, except the costs of making, executing and delivering the deed of conveyance, shall abide the event of the suit, as in other cases; *provided, however*, that in case of the value of the land, or other property so condemned, shall not exceed the sum shown to have been originally tendered therefor, the defendant or defendants shall be liable for the costs of said action.

Sec. 6. The practice in actions brought under this act shall be governed by the same rules as other civil actions at law, except as is otherwise provided in this act.

Stats. 1866, p. 196.

Corporations.

SECTION 1. All corporations for the purpose of mining, formed, or which may hereafter be formed, under the laws of the State of Nevada, or which were formed under the laws of the Territory of Nevada, shall have power to pur-

chase and hold such mining property as they may deem meet.

SEC. 2. The power to make such purchases by any corporation shall be exercised only by a majority, in interest, of all the stockholders in any such corporation, or by such person or persons as may, by such majority, be duly appointed to act in their stead.

Stats., 1866, p. 204.

Corporations may become Stockholders.

Section 1 of an Act to provide for the formation of Corporations, as amended by Act of March 1, 1866, is further amended as follows:

SECTION 28. Corporations formed under the provisions of this act for mining, milling, or ore reduction purposes, may subscribe to and become stockholders in any corporation, company or association now formed, or which may hereafter be formed for the purpose of constructing any tunnel, shaft or other work, which may be calculated to aid or facilitate the exploration, development, or working of any mine or mining ground in this state; and any corporation so becoming a stockholder therein shall, in proportion to its interest, be subject to all the liabilities, and entitled to all the rights and privileges of an individual stockholder.

Stats. 1867, p. 44.

Repealing Act concerning Location and Possession of Mining Claims.

SEC. 2. All rights acquired under the act hereby repealed shall remain valid, and all assessment work done, or assessments paid, shall hold the possession of the claims on which the same was done or paid, as in said act provided; and in all mining districts wherein the provisions of said act were adopted as the mining laws or regulations of the district, the same shall remain the laws thereof until repealed or amended by such districts, except the requirement to cause the record of claims to be made in the county recorder's office.

Stats. 1867, p. 55.

Section 1 repeals the Act above cited.

Recovery of Mining Claims.

SEC. 4. No action for the recovery of mining claims, or for the recovery of the possession thereof, shall be maintained, unless it appear that the plaintiff, or those through or from whom he claims, were seised or possessed of such mining claim, or were the owners thereof, according to the laws and customs of the district embracing the same, within two years before the commencement of such action. Occupation and adverse possession of a mining claim shall con-

sist in holding and working the same, in the usual and customary mode of holding and working similar claims in the vicinity thereof. All the provisions of this act which apply to other real estate, so far as applicable, shall be deemed to include and apply to mining claims; *provided*, that in such application "two years" shall be held to be the period intended whenever the term "five years" is used; *and provided further*, that when the terms "legal title" or "title" are used, they shall be held to include title acquired by location or occupation, according to the usages, laws, and customs of the district embracing the claim.

Amending Sec. 4 of the act of 1861, defining time for commencing civil actions.

Stats. 1867, p. 85.

See Supplemental Act of February 27, 1869.

Taxation of Mines.

SEC. 3. Section ninety-nine of said act of February 24, 1866, is hereby amended, so as to read as follows:

Section Ninety-nine. All ores and minerals shall be assessed for purposes of taxation for State and county purposes at their value when severed from the mine and deposited on the surface; and to determine the value of ores containing gold and silver, or either, the assessor shall deduct from the gross yield of such ores, when the same are worked by any process without roasting, the sum of eighteen dollars per ton; and when worked by the Freiberg or roasting process, or by smelting process, the sum of forty dollars per ton.

SEC. 4. Section one hundred and six of act March 9, 1865, is hereby amended, so as to read as follows:

Section One Hundred and Six. It shall be the duty of the assessor to prepare and complete quarterly, on or before the second Monday in February, May, August and November, in each year, a tax list or assessment roll, which shall be known and designated as the "Assessment Roll of the Proceeds of Mines," alphabetically arranged in a book or books furnished him by the board of county commissioners for that purpose, in which book or books shall be listed or assessed the proceeds of all the mines in his county, as provided in this act, and in such book or books he shall set down in separate columns:

First. The names of the owners, firms, incorporated companies, or associations engaged in the business of extracting ores, quartz, or minerals bearing gold and silver, or either; and if any owner, firm, incorporated company, association, or superintendent shall refuse to make the statement, or refuse to the assessor or his deputy access to their books as provided in this act, that fact shall be noted under

his name, opposite the name of the owner, firm, incorporated company, or association. The assessor shall, as particularly as practicable, give a description of the mine or mining claim from which the ores, quartz, or mineral assessed was extracted or taken.

Second. The number of tons of gold and silver, or either, bearing ores, quartz, or minerals extracted by such owners, firms, incorporated companies or associations, for the preceding quarter year.

Third. The assessed value per ton; *provided*, that ores, quartz, or minerals containing gold and silver, or either, which yield less per ton than is by this act directed to be deducted for expenses of working the same, shall not be assessed or included in the assessment roll, but shall be included in the statement furnished the assessor.

Fourth. The total assessed value.

Fifth. The amount, after the deductions as provided in this act, upon which such taxes are levied.

The form of the quarterly assessment roll shall be substantially as follows:

QUARTERLY ASSESSMENT ROLL OF THE PROCEEDS OF THE MINES
FOR THE QUARTER ENDING—————:

Name of Owners.	Description and Loca- tion of Mine	No. of tons extracted for the three months ending—:	Value per Ton.	Amount per ton de- ducted as provided by law.	Amount on which tax is levied.	Total amount of Tax.
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Any person, firm, incorporated company, or association, feeling aggrieved on account of an assessment made as in this statute provided, may appear before the board of county commissioners at any regular or special term thereof, and ask to have such assessment equalized; and such board may proceed to hear the allegations of the party complaining, and of the assessor, and such other evidence as may be produced, and by an order entered in the minutes of their proceedings, equalize such assessment by adding to or deducting therefrom, as may seem just, and such action when had shall be final.

SEC. 5. Section one hundred and seventeen of said act of March 9, 1865, is hereby amended, so as to read as follows:

Section One Hundred and Seventeen. The revenue arising from the tax of one hundred and twenty-five cents on the valuation of the proceeds of mines and mining claims, as fixed in this statute, shall be paid into the county treasury, for the use and benefit of the State, to be appropriated as in this act provided; and by the county treasurer shall be paid over to the State treasurer, as he is directed and

required by law to pay over other moneys belonging to the State.

SEC. 6. Section one hundred and eighteen of act of March 9, 1865, is hereby amended, so as to read as follows:

Section One Hundred and Eighteen. Every tax levied under the provisions or authority of this act, on the proceeds of the mines, is hereby made a lien on the mine or mining claims from which ores, quartz, or minerals bearing gold and silver, or either, is extracted for reduction or removal; which liens shall attach on the first days of January, April, July, and October of each year, for the quarter year commencing on those days respectively, and shall not be satisfied or removed until the taxes as provided in this act, on the proceeds of the mines, are all paid, or the possessory title to said mines or mining claims has absolutely vested in a purchaser under a sale for the taxes levied on the proceeds of such mines or mining claims. The county assessor may at any time serve a notice, which shall be in writing, signed by him, upon any person or firm, or upon the superintendent, managing agent, foreman, or any person having charge or control of the business of any incorporated company or association engaged in reducing ores taken from any mine or mining claim, setting forth the amount of taxes assessed and unpaid on account of ores or minerals extracted or taken from such mine or mining claim, and from the time of receiving such notice, the person or firm, incorporated company or association so notified shall be held liable for the amount of such unpaid taxes, to the extent of the value of the ores and minerals then in possession of the person or firm, incorporated company or association, extracted or taken from such mine or mining claim.

SEC. 7. Section one hundred and nineteen of act of March 9, 1864, is hereby amended, so as to read as follows:

Section One Hundred and Nineteen. The assessors in the several counties in this State shall be allowed to retain to their own use, for collecting the tax as provided in this act, on the proceeds of the mines and mining claims, three per centum on all moneys by them collected, and no more. The assessor and his deputies shall keep a correct account of the number of days and parts of days they have been actually employed in assessing the proceeds of the mines, as provided in this act, and including therein the time employed in making the assessment for both State and county purposes on the proceeds of the mines; and shall verify the same under oath before the clerk of the board of county commissioners, or other person authorized to administer oaths, and then present said account to the board of county commissioners, who, if satisfied of the correctness of the

same, shall allow it, or so much thereof as they may find correct, and order payment thereof to be made at the rate of eight dollars per day, which shall be in full for all services in making the assessment for both State and county purposes, and shall be paid as in this statute provided. The county auditor shall receive for extending the taxes on the quarterly assessment roll of the proceeds of the mines, an amount not to exceed fifteen cents per folio of one hundred words. No county treasurer shall be allowed to receive to his own use any per centage or compensation from the tax on the proceeds of the mines.

SEC. 8. Section one hundred and twenty of act of March 9, 1865, is hereby amended, so as to read as follows:

Section One Hundred and Twenty. The amount allowed and paid out to the assessor and county auditor for services, under this act, so far as it relates to the proceeds of the mines, shall be apportioned by the auditor in the proportion the State tax bears to the county tax on proceeds of mines; and the amount shall be charged to the State and county, ratably in said proportion, and a verified statement of the amount allowed by the board of county commissioners shall entitle the controller to credit the county treasurer with such amounts as shall have been charged against the State.

Stats. 1867, p. 160; amending acts of March 9, 1865; and Feb. 24, 1866.

Taxation of Mines for County Purposes.

SEC. 5. All taxes levied on the proceeds of mines and mining claims, for county purposes, shall, in all respects, be assessed and collected as taxes are levied and assessed on the proceeds of mines and mining claims for State purposes, and shall in like manner and effect constitute a lien on the possessory title or right to the mine or mining claim, against and upon which the same is assessed, until the taxes are paid.

Stats. 1867, p. 164.

Corporations, for what purposes may be formed.

SECTION 1. Corporations for manufacturing, mining, milling, ditching, mechanical, chemical, building, navigation, transportation, farming, banking, hotel and inn-keeping, and ore-reduction purposes, etc., may be formed according to the provisions of this act. Such corporations, and the members thereof, being subject to all the conditions and liabilities herein imposed, and to none others.

Stats. 1869, p. 95.

Amending Section 1 of the General Corporation Act.

Recovery of Mining Claims.

SECTION 1. No action for the recovery of real property, or for the recovery of the possession thereof other than mining claims, shall be maintained, unless it appear that the plaintiff, his ancestor, predecessor or grantor was seised or possessed of the premises in question, within five years before the commencement thereof.

Stats. 1869, p. 95.

Conveyance of Mining Locations and Claims by Minors.

SECTION 1. In all cases in this State since the first day of July, A. D. 1867, where minors over the age of eighteen years have sold interests acquired by them in mining claims or locations by virtue of their having located such claims, or having been located therein by others, and have executed deeds purporting to convey such interests, such deeds, if otherwise sufficient in law, shall be held valid and sufficient to convey such interest fully and completely, notwithstanding the minority of the grantor, and without any power or right of subsequent revocation; *provided*, that this section shall not apply to cases where any fraud was practiced upon such minor, or any undue or improper advantage was taken by his purchaser or any other person to induce such minor to execute such deed; and, *provided further*, that this section shall not apply to or affect any suits which may now be pending in any of the courts of this State, in which the legality or validity of such deeds may be involved.

SEC. 2. All minors in this State, over the age of eighteen years, are hereby authorized and empowered to sell and convey by deed such interests as they may have acquired, or may hereafter acquire, in mining claims or mining locations within this State by virtue of locating the same, or being located therein, and such deed shall, if otherwise sufficient in law, be held valid and sufficient to convey such interest fully and completely, and without the right of subsequent revocation, notwithstanding the minority of the grantor, subject, however, to the same provisions and limitations contained in the first section of this act.

Stats. 1869, p. 96.

Encouragement of Mining.

This act purports to amend section five of the Act to encourage mining, approved February 20, 1864, but that Act was repealed by one of the same title passed March 7, 1865.

Stats. 1869, p. 135.

Partition of Mining Claim—Proceedings of.

SEC. 312. When the action is for partition of a mining claim among the tenants in common, joint tenants, coparceners or partners thereof, the court, upon good cause shown by any party or parties in interest, may, instead of ordering partition to be made in manner as hereinbefore provided, or a sale of the premises for cash, direct the referees to divide the claim in the manner hereinafter specified.

SEC. 313. The court shall, in its order, or by a subsequent order made upon motion, fix the time for division of the claim by the referees, which shall not be less than twenty nor more than forty days from the day of making the order, except by consent of all the parties in interest, who have appeared in the action.

SEC. 314. On the day designated in the order the referees shall go upon the claim to be divided and proceed to make division of the same as hereinafter provided, and shall continue from day to day until the whole business is completed.

SEC. 315. Two or more of the tenants in common, joint tenants, copartners or parceners may unite together for the purposes of such division, of which they shall give the referees written notice before they commence the business of division; and all who do not unite as aforesaid, or give notice of separate action, shall, for the purposes of division, be deemed and held to have united. The referees, in their action, shall recognize those named in the order of the court, or their agents and attorneys in fact, duly appointed by instrument in writing under seal, and acknowledged as in cases of conveyances of real estate, the guardian of an infant and the guardian entitled to the custody and management of the estate of an insane person or other person adjudged incapable of conducting his own affairs, and as to the interest of each, shall be controlled entirely by the order of the court.

SEC. 316. At the time and place of division one of the referees to be selected by them shall in the manner of public auction offer to the party or parties who will take the least part or portion of said mining claim in proportion to the interest he or they may have therein, the privilege of first selecting the place at which his portion shall be located, and upon closing the bids the referees shall proceed to measure and mark off, by distinct metes and bounds, to the lowest bidder, his or their portion of said mining claim, at the place designated by them or him, according to the terms of his or their bid.

SEC. 317. When the referees have marked off and set apart the interest of the lowest bidder, as provided in the last section, they shall offer to the remaining parties the

privilege of selection as in said section mentioned and described, and shall, upon closing the bids, proceed in the same manner to locate and mark off the portion of the lowest bidder, and shall thereafter continue in the same manner to receive bids and mark off the interest of the bidder or bidders until there shall remain but one party in interest, or parties united, forming one interest, as provided in section three hundred and fifteen.

SEC. 318. The party or parties remaining as provided in the last section, shall become the owner or owners, as the case may be, of the entire claim not marked off and set apart to other parties, as hereinbefore provided, in proportion to their respective interests in the claim.

SEC. 319. The referees shall return, with their report in this act required to be made by them, the evidences of authority presented to them by persons other than the parties mentioned in the order of the court by which they claim the right to bid, or otherwise act, during the proceedings hereinbefore mentioned.

Stats. 1869, p. 246.

Taxation of net Proceeds of Mines.

SECTION 1. All ores, tailings and mineral-bearing material of whatever character, shall be assessed for purposes of taxation, for State and county purposes, in the following manner: From the gross yield, return, or value of all ores, tailings, or mineral-bearing material, of whatever character, there shall be deducted the actual cost of extracting said ores or minerals from the mine; the actual cost of saving said tailings; the actual cost of transportation of said ores, mineral-bearing material or tailings to the place of reduction or sale, and the actual cost of such reduction or sale, and the remainder shall be deemed the net proceeds, and shall be assessed and taxed as provided for in this act; *provided*, that in no case whatsoever shall the whole amount of deductions allowed to be made in this section from the gross yield, return or value of said ore, mineral-bearing material, or tailings, exceed the percentage of gross yield, value or return of such ore, minerals, or tailings, as hereinafter specified.

On all ores, tailings, or mineral-bearing material, the gross yield or value of which is twelve dollars per ton, or less, the whole amount of deduction shall not exceed ninety per centum of such gross yield, return or value. On all ores, tailings, or mineral-bearing material, the gross yield, value, or return of which is over twelve and under thirty dollars per ton, the whole amount of deductions shall not exceed eighty per centum of such gross yield, value or return. On all ores, tailings, or mineral-bearing material, the

gross yield, value, or return of which is over thirty dollars and less than one hundred dollars per ton, the whole amount of deductions shall not exceed sixty per centum of such gross yield, value or return.

On all ores, tailings, or mineral-bearing material, the gross yield, return or value of which is one hundred dollars per ton, or over, the whole amount of deductions shall not exceed fifty per centum of such gross yield, return or value; *provided*, that an additional exemption of fifteen dollars per ton may be allowed on all ores, tailings or minerals worked by Freiberg or dry process.

SEC. 2. It shall be the duty of the several county assessors within this State, to prepare and complete quarterly, on or before the second Monday in February, May, August, and November, in each year, a tax list or assessment roll of the proceeds of the mines, alphabetically arranged in a book furnished them by the board of county commissioners for that purpose, in which book shall be listed or assessed, the proceeds of all mines in their respective counties, as provided in this act. The form of the assessment roll shall be substantially as follows:

Names of Owners.	Description and location of mine.	Number of Tons extracted for the quarter.	Gross yield or value; same in dollars and cents	Actual cost of extracting same from mine.	Actual cost of transportation to place of reduction or sale.	Actual cost of reduction or sale.	Net yield or value in dollars and cents.	Total am't of Tax.

For the purpose of enabling the assessor to make such assessment, he shall demand from the president, secretary, superintendent, treasurer, or managing agent of each corporation, association, or firm engaged in extracting ores or minerals within his county, and from any person so engaged other than as a corporation, association or firm, a statement under oath or affirmation of the total number of tons extracted by him or them; the gross yield or value of the same in dollars and cents; the actual cost of extracting the same from the mine; the actual cost of transportation of same to place of reduction or sale, and the actual cost of reduction or sale of same for the preceding three months respectively. If any person shall knowingly make or give under oath or affirmation, as aforesaid, a false statement to

the assessor, such person shall be deemed guilty of perjury, and upon conviction thereof, shall be punished therefor, as is provided by law for the punishment of the crime of perjury.

SEC. 3. The account books relating to or used in the transaction of the business of any person, firm, company, association or corporation, engaged in extracting ores or minerals bearing gold or silver, or other metals for reduction or sale, shall on demand of the assessor or his deputy be open to his inspection. If any such person or the president, superintendent, treasurer, secretary, or managing agent, or whoever has charge of said books of such company, association, corporation or firm, shall neglect or refuse to give on demand, to the assessor or his deputy, access to the books aforesaid, he or they shall be deemed guilty of a misdemeanor and shall be arrested on complaint of the assessor or his deputy, and on conviction thereof before a justice of the peace, shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

SEC. 4. In case of neglect or refusal of any person, firm, president, superintendent, treasurer, secretary, or managing agent, or whoever has charge of the books or mines of any person, firm, company, association or corporation engaged in extracting ores or minerals for reduction or sale, to give under oath or affirmation the statement required in this act, the assessor or his deputy shall make an estimate from the best sources within his reach of the number of tons of all ores or minerals extracted by such person, firm, company, association or corporation for the preceding quarter, and assess the same to him or them without making any deduction for actual costs of any kind, and such assessment shall be binding, lawful and effectual, as if made upon a sworn or affirmed statement.

SEC. 5. Any person, firm, incorporated company, or association, excepting such as shall have persistently refused to give the assessor on his demand access to the books of said person, firm, incorporated company or association, feeling aggrieved on account of the assessment made as in this statute provided, may appear before the board of county commissioners, at any regular term, or special term thereof called for that purpose, and ask to have such assessment equalized; and such board may proceed to hear the allegations of the party complaining and of the assessor, and such other evidence as may be produced, and by an order entered in the minutes of their proceedings, equalize such assessment by adding to or deducting therefrom, as may seem just, and such action when had, shall be final.

SEC. 6. Every tax levied under the authority or provisions of this act, on the proceeds of the mines is hereby made a lien on the mines or mining claims, from which ores or minerals bearing gold and silver, or either, or any other valuable metal, is extracted for reduction, which lien shall attach on the first days of January, April, July, and October of each year, for the quarter year commencing on those days respectively; and shall not be satisfied or removed until the taxes as provided in this act, on the proceeds of the mines, are all paid, or the title to said mines or mining claims has absolutely vested in a purchaser under a sale for the taxes levied on the proceeds of such mines or mining claims.

SEC. 7. The county assessor may at any time serve a notice, which shall be in writing, signed by him, upon any person or firm, or upon the superintendent, managing agent, foreman, or any other person having charge or control of the business of any incorporated company or association engaged in reducing ores taken from any mine or mining claim, setting forth the amount of taxes assessed and unpaid on account of ores or minerals extracted or taken from such mine or mining claim, and from the time of receiving such notice, the person or firm, incorporated company or association so notified, shall be held liable for the amount of such unpaid taxes to the extent of the value of the ores and minerals then in possession of the person or firm, incorporated company or association, extracted or taken from such mine or mining claim.

SEC. 8. The assessors in the several counties in this State shall be allowed to retain to their own use, for collecting the tax as provided in this act, on the proceeds of the mines and mining claims, three per centum on all moneys by them collected, and no more. The assessors and his deputies shall keep a correct account of the number of days they have been actually employed in assessing the proceeds of mines, as provided in this act, and including therein the time employed in making the assessment for both State and county purposes, on the proceeds of the mines, and shall verify the same under oath before the clerk of the board of county commissioners, or other person authorized to administer oaths, and then present said account to the board of county commissioners, who, if satisfied of the correctness of the same, shall allow it, or so much thereof as they may find correct, and order payment therefor to be made at the rate of eight dollars per day, which shall be in full for all services in making the assessment for both State and county purposes, and shall be paid as in this statute provided. The county auditor shall receive, for extending the taxes on the quarterly assessment-roll of the proceeds of the mines, an amount not to exceed fifteen cents per folio of one hun-

dred words. No county treasurer shall be allowed to receive to his own use any percentage or compensation from the tax on the proceeds of the mines.

SEC. 9 provides for the apportionment of the compensation to the assessor and county auditor.

SEC. 10. The collection of the tax under this act is enforced in the same manner as taxes on any other kind of personal property.

SEC. 11 repeals all acts inconsistent with the provisions of this act.

Stats. 1871, p. 87.

Determination of conflicting Rights to Mining Claims.

SECTION 1. In all actions brought to determine the right of possession of a mining claim, or metalliferous vein or lode, where an application has been made to the proper officers of the government of the United States by either of the parties to such action for a patent for said mining claim, vein, or lode, it shall only be necessary to confer jurisdiction on the court to try said action and render a proper judgment therein, that it appear that an application for a patent for such mining claim, vein, or lode has been made, and that the parties to said action are claiming such mining claim, vein, or lode, or some part thereof, or the right of possession thereof.

Stats., 1873, p. 50.

Location, etc., of Borax and Soda Mines.

SECTION 1. The ownership of, or claim to, or possession of, or right of possession to, any lands in this State, containing and held for the purpose of obtaining borax or soda, shall be assessed, annually, for taxation, for State and county purposes, at not exceeding five dollars per acre. The annual payment of said taxes, and the compliance with the provisions of an act, entitled "An act to provide for the location of lands containing salt," approved February 24, 1865, shall be held as a recognition on the part of the State of the validity of said ownership of, or claim to, or possession of, or right of possession to, said lands; *provided*, that where borax and soda mines and claims are being worked for borate of soda, borate of lime, boracic acid, or carbonate of soda, then the net proceeds thereof shall be taxed. In the event that the tax on such net proceeds shall equal or exceed in amount what would be derived from said mines or claims, taxing them at five dollars per acre, as aforesaid; and when the net proceeds are taxed, the ownership of, claim to, possession of, or right of possession to, the said lands, shall not be taxed.

Amended by act of March 5, 1873.

SEC. 2. Sections 2, 3, 4, 5, 6, 7, 8, 9, and 10 of an act entitled "An act providing for the taxation of the net proceeds of mines," approved February 28, 1871, shall be and are hereby made applicable as to time and manner of assessing and collecting the revenue derived from the net proceeds of borax and soda mines and claims.

SEC. 3. The officers whose duty it is to enforce the provisions of "An act providing for the taxation of the net proceeds of mines" (referred to in section 2 of this act) shall enforce the provisions of this act, so far as it relates to the taxation of the net proceeds of borax and soda mines and claims, and shall receive the same compensation as provided in said act.

SEC. 4. The State controller is hereby authorized and directed to prepare and furnish the necessary blanks and instructions to carry this act into effect.

Stats. 187, p. 1873.

Corporate Powers of Corporations.

SECTION 1. Section five of the act of March 10, 1865, is hereby amended so as to read as follows:

Section Five. The corporate powers of the corporation shall be exercised by a board of not less than three trustees, who shall be stockholders in the company; who shall, before entering upon the duties of their office, respectively, take and subscribe to an oath, as prescribed by the laws of this State, and who shall, after the expiration of the term of the trustees first elected, be annually elected by the stockholders, at such times and place within the State, and upon such notice, and in such manner as shall be directed by the by-laws of the company; but all elections shall be by ballot, and each stockholder, either in person or by proxy, shall be entitled to as many votes as he or she may be entitled to represent, by proxy, shares of stock; and the person or persons receiving the greatest number of votes shall be trustee or trustees. Whenever any vacancy shall happen among the trustees by death, resignation, or otherwise, except by removal and the election of his successor, as herein provided, it shall be filled by appointment of the board of trustees. On petition of the stockholders holding the majority of the stock actually issued by any corporation formed under this act, to the district judge of the district where said corporation has its actual place of business, verified by the signers, to the effect that they are severally the holders of, to the number of shares set opposite their signatures to the foregoing petition, the district judge shall issue his notice to the stockholders of said company, that a meeting of the stockholders will be held at the court-room of the district court, in the county in which is said princi-

pal place of business, stating the time, not less than five nor more than ten days after the first publication of said notice, and the object to be taken into consideration, the removal of officers of said company; which notice, signed by the said district judge, shall be published daily, in a daily newspaper published in said county, for at least five days before the time for the meeting; or, if there be no daily newspaper published in said county, then in such manner as the district judge shall direct. At the time appointed by said notice, the said district judge shall appoint a secretary of the meeting, and shall thereupon hear the proofs of those claiming to be stockholders in said corporation; and only those showing a right to vote, or their proxies, shall take part in the further proceedings. Said judge shall decide who are entitled to vote, in a summary way, and his decision shall be final. If it appears, at the time appointed, or within one hour thereafter, holders of less than one-half the whole number [of] shares actually issued, or their proxies, are present, the meeting shall be dissolved; but if the holders of more than one-half the shares actually issued, or their proxies, are present, they shall proceed to vote, the secretary calling the roll, which he shall prepare by setting down the names of persons held to be entitled to vote, and the number of shares held by each, and such persons voting yea or nay, as the case may be; the secretary shall enter the same upon his list, and, when he has added up the list and stated the result, he shall sign the same and hand it to the judge, who shall declare the result. If the result of the vote is that the holders of a majority of all the shares of the company actually issued, or their proxies, are in favor of the removal of one or more of the officers of the company, the meeting shall then proceed to ballot for officers to supply the vacancies thus created. Tellers shall be appointed by the judge, who shall collect the ballots and deliver them to the secretary, who shall count the same in open session, and, having stated the result of the count, in writing, shall sign the same and hand it to the judge, who shall announce the result to the meeting. The judge shall thereupon issue to each person chosen a certificate, stating that, from the date of such meeting until the next annual election, unless removed under the provisions hereof, he is entitled to exercise and fill the office to which he is chosen; and shall indorse upon or annex to said petition, a report of the proceedings of said meeting; and an order requiring that all books, papers, and all property and effects of said corporation, be immediately delivered to the officers elect, and shall sign the same and file it with the clerk of his court; and thereafter any disobedience to said order may be punished as other contempts of court, and obedience

thereto may be enforced by the court of said district. The district judge shall preside at said meeting, and put to vote such proper motions as he may be requested to submit to the meeting. In deciding any controverted question that may arise, he shall have the power to administer oaths and take testimony, either orally or by *ex parte* affidavits. For all the services in these proceedings the county clerk shall receive twenty dollars.

Stats. 1875, p. 68.

Encouragement of Mining, Milling, Smelting, and Reduction of Ores.

SECTION 1. The production and reduction of ores are of vital necessity to the people of this State; are pursuits in which all are interested, and from which all derive a benefit; so the mining, milling, smelting, or other reduction of ores, are hereby declared to be for the public use, and the right of eminent domain may be exercised therefor.

SEC. 2. Any person, company, or corporation engaged in mining, milling, smelting, or other reduction of ores, may acquire any real estate, or any right, title, interest, estate or claim therein or thereto necessary for the purposes of any such business, by means of the special proceedings prescribed in this act. The said special proceedings shall be substantially as follows: There shall be filed in the clerk's office of the District Court, in the county where the real estate is situated, a petition verified according to law, stating therein the name of the person, company or corporation presenting the petition, that they are engaged in the business of mining, milling, smelting or other reduction of ores as aforesaid, the description by the metes and bounds, or by some accurate designation of the tract or tracts of land desired to be appropriated for the purposes of such business, and that a necessity exists therefor, setting forth the names of those in possession of said lands, and of those claiming any right, title or interest therein, so far as the same can be ascertained by reasonable diligence.

SEC. 3. The persons in occupation of said tract or tracts of land, and those having any right, title or interest therein, whether named in the petition or not, shall be defendants thereto, and may appear and show cause against the same and may appear and be heard before the commissioners herein provided for, and in proceedings subsequent thereto, in the same manner as if they had appeared and answered said petition.

SEC. 4. The said court, or the judge thereof, either in term or vacation, shall by order appoint the time for the hearing said petition, and such hearing may be had, and all orders in said proceedings may be made by the said court or the judge thereof, either in term time or vacation.

SEC. 5. The petitioner shall cause all the occupants and owners of said tract or tracts of land, so far as the same can be ascertained by reasonable diligence, who reside in said county, to be personally notified of the pendency of the said petition at least ten days before the hearing thereof; and if any of said occupants or owners are unknown, or do not reside in said county, and have not been personally notified of the pendency of the said petition, such petitioner shall cause a notice, stating the filing of said petition, the object thereof, the tracts of land sought to be appropriated, and the time and the place of the hearing of said petition, to be published for four successive weeks, previous to the time of hearing said petition, in a newspaper published in said county, or if none is published in said county, then in a newspaper published nearest to said county.

SEC. 6. The defendants to said petition may appear and show cause against said petition on or before the time for the hearing thereof, or such other time as the hearing may be continued to; and upon satisfactory proof being made that the defendants have been duly notified of the pendency of said petition, as herein prescribed; and upon the hearing of the allegations and proofs of the said parties, if the said court or judge shall be satisfied that the said lands, or any part thereof, are necessary or proper for any of the purposes mentioned in said petition, then such court or judge shall appoint three competent and disinterested persons as commissioners, one of whom shall be selected from among the persons, if any, named for that purpose by said petitioner, and one shall be selected from among the persons, if any, named on the part of any of the defendants, to ascertain and assess the compensation to be paid to any person or persons having or holding any right, title or interest in or to each of said tracts of land, for and in consideration of the appropriation of such land to the use of said petitioner. If any vacancy occur among said commissioners, by reason of any one or more of them refusing or neglecting to act, or by any other means, one or more commissioners may be appointed by said court or judge to fill such vacancy, upon notice being given of such vacancy as said court or judge may direct.

SEC. 7. The said court or judge shall appoint the time and place for the first meeting of said commissioners, and the time for filing their report, and may give such further time as may be necessary for that purpose, if they shall not then have completed their duties. The said commissioners, or a majority of them, shall meet at the time and place, as ordered, and before entering on their duties, shall be duly sworn to honestly, faithfully and impartially perform the duties imposed upon them; and any one of them may issue

subpoenas for witnesses for either of said parties, and may administer oaths; and said commissioners may adjourn from place to place, and from time to time, as may be necessary for the proper discharge of their duties.

SEC. 8. The said commissioners shall proceed to view the several tracts of land, as ordered by said court or judge, and shall hear the allegations and proof of said parties, and shall ascertain and assess the compensation for the land sought to be appropriated to be paid by said petitioner to the person or persons having or holding any right, title, or interest in or to each of the several tracts of land; and such commissioners shall, on or before the time or times as ordered by said court or judge, file in said clerk's office their report signed by them, or a majority of them, setting forth their proceedings in the premises; and they may include all of said tracts in one report, or they may make several reports, including one or more of said tracts of land, if the court or judge shall so order, or if they shall deem it proper. In case there are adverse or conflicting claims to the compensation assessed for any tract of land, or any right, title, or interest therein thus sought to be appropriated, the parties thus asserting such claim shall present the same by petition to the court or judge after the report of the commissioners shall have been filed, and the said court or judge shall proceed to hear and determine the same; and in such cases said petitioner may pay the amount of such compensation to the clerk of said court, to abide the order of the court or judge in said proceedings, and said petitioner shall not be liable for any of the costs caused by the adjudication of such conflicting claims.

SEC. 9. The said petitioner, or any of said defendants, if dissatisfied with the report, may, within twenty days after the time of filing said report, and after ten days' notice to the parties interested, move to set aside the report, and to have a new trial as to any tract of land, on good cause shown therefor, and the said court or judge shall set aside the report as to such tract of land, and may recommit the matter to the same, or to other commissioners, who shall be ordered to proceed in like manner as those first appointed; but such matter shall not be more than twice recommitted to commissioners.

SEC. 10. Upon the expiration of twenty days after the filing of said report, or reports, or at such further time as may be appointed therefor, if the motion and notice shall not have been made and given as aforesaid, and if the proceedings of said commissioners appear to have been correctly and properly done, the said court or judge shall confirm each of said reports, and certify the same thereon.

SEC. 11. Each of said reports, and the certificates thereon,

upon the compensation therein named being paid, shall be recorded in the recorder's office of said county by said petitioner. The said court or judge may make all such orders as may be necessary or proper in the special proceedings provided for in this act, and shall cause the pleadings and proceedings to be amended whenever justice shall require it to be done, and shall direct the manner of the service of all orders and notices not herein specially provided for. Costs in such special proceedings shall be taxed by the clerk at the rates prescribed in the fee-bill for said county in civil actions, and also the compensation of the commissioners which shall be fixed by the court or judge, and shall be paid by said petitioner, except in case where a defendant shall move for a new trial, and the compensation assessed by the commissioners shall not be increased more than ten per cent. upon the previous assessment, in which case such defendant shall pay the costs.

SEC. 12. If the title attempted to be acquired by virtue of the provisions of this act shall be found to be defective from any cause, such petitioner may again institute proceedings to acquire the same, as in this act prescribed, and at any stage of such new proceedings, or of any proceedings under this act, the court or judge in chambers may rule, or by order in their behalf made, authorize such petitioner, if already in possession to continue in the use and possession, and if not in possession, to take possession of and use such premises during the pendency of and until the final conclusion of such proceedings, and may stay all actions and proceedings against such petitioner on account thereof, provided such petitioner shall pay a sufficient sum into court, or give security to be approved by such court or judge, to pay the compensation in that behalf when ascertained.

SEC. 13. Upon the filing of the report of the commissioners for record as above provided for, and upon the payment or tender of the compensation and costs as prescribed in this act, the real estate, or the right, title or interest therein described in such report, shall become the property of said petitioner for the purpose of the business of mining, milling, smelting, or other reduction of ores as aforesaid, so long as the same shall be continued, and shall be deemed to be acquired for and appropriated to public use.

SEC. 14. Such petitioner shall, within thirty days after the final confirmation of the report aforesaid, pay or tender the sum of money ascertained and assessed by said commissioners as and for the compensation of each tract of land described in said report of which the compensation was ordered by said court or judge to be ascertained and assessed as aforesaid; and said payment or tender may be made to the person or persons owning said tract of land, or

having or holding any right, title, or interest therein, according to the amount or extent of the right, title, or interest owned or held therein by such person or persons; or said payment may be made to the said clerk for said persons, and the same shall be deemed and taken as a payment to such person or persons, and shall be as effectual for all purposes as if the said sum of money had been personally paid to each and all of the persons entitled thereto.

SEC. 15. If it shall become necessary for any of the purposes aforesaid for such petitioner to acquire any real estate, or any right, title or interest therein, which is the property of any infant, idiot, or insane person, the guardian, executor or administrator, as the case may be, shall be subject to process, judgment, and decree as herein provided for persons of full age or capable of contracting, or without such process, judgment, or decree, they may sell and convey the property desired to said petitioner; but neither such sale or conveyance shall be valid for any purpose until the same shall have been approved by the judge of the proper court; and said judge is hereby authorized to examine such deeds and conveyances, and if he shall deem the same just and proper, he shall approve the same, and thereupon such conveyances shall have the same force and effect for the purposes in this section mentioned as if the same had been executed by persons competent to convey lands in their own names.

SEC. 16. The said court or judge shall, at the time of the payment of any sum of money to the said clerk under the provisions of this act, or at such other time or times as may be ordered, direct and order the same to be paid over to the person or persons who shall, upon satisfactory proof, appear to be entitled thereto.

SEC. 17. In all the proceedings in relation to the sale or appropriation of real estate, and ascertaining and receiving the compensation therefor, for the purposes as prescribed in this act, the term "person" shall be deemed to include municipal or other corporations, and the word "petitioner" to designate any person or number of persons, company or corporation who may in any case petition as provided in this act.

SEC. 18. The minutes of the proceedings had before such judge shall be entered by said clerk, in the same manner and with the same force and effect as if the proceedings were had before said court in term time.

Stats. 1875, p. 111.

Taxation of Proceeds of Borax and Soda Mines.

SECTION 1. Section one of act of March 7, 1873, is hereby amended so as to read as follows:

Section One. Where borax and soda mines and claims are being worked for borate of soda, borate of lime, boracic acid, or carbonate of soda, the net proceeds thereof shall be taxed in the manner prescribed by law for taxing the net proceeds of mines.

Stats. 1875, p. 137.

APPENDIX.

Mining Forms under the Revised Statutes of the United States.

Form A.

NOTICE OF LOCATION.

Notice is hereby given, that the undersigned, having complied with the requirements of Chapter VI. of Title XXXII. of the Revised Statutes of the United States, and the local customs, laws and regulations, has located _____ linear feet on the _____ lode [twenty acres of placer mining ground], situated in _____ Mining District, _____ County, _____ and described as follows:

[Describe the claim accurately, by courses and distances, if possible; If a placer claim is located on surveyed land, by legal subdivision.] _____

Located _____ 187-. Recorded _____ 187-. _____ Locator.

County of _____, ss.

_____ and _____ each for himself, and not one for the other, being first duly sworn, deposes and says, that he is of lawful age, and a citizen of the United States; that he has read the notice of location of _____ feet on the _____ lode by _____; that the description of said lode, viz.:

[Give description]

as therein given is true and correct; that the said _____ has in every respect fully complied with the requirements of Chapter VI. of Title XXXII. of the Revised Statutes of the United States, and the local customs and laws regulating mining locations.

Subscribed and sworn to before me, this _____ day of _____, A. D. 187-, and I hereby certify that I consider the said _____ and _____ credible and reliable persons.

[SEAL.]

Notary Public (or other officer using a seal)

Form B.

APPLICATION TO UNITED STATES SURVEYOR-GENERAL FOR SURVEY OF MINING CLAIM.

To _____, United States Surveyor-General for _____, 187-.

SIR—In compliance with the provisions of Chapter VI. of Title XXXII. of the Revised Statutes of the United States, _____ herewith make application for an official survey of the mining claim known as the _____ mine, claimed by _____ located in _____ Mining District, in the County of _____, Township No. _____ Range No. _____, _____ base and meridian, in the State of California; and _____ request that you will send to _____ address an estimate of the amount to be deposited, in currency, for the work to be done in your office; and that after such deposit shall have been made, you will cause the the said mining claim to be surveyed by _____ United States Deputy Surveyor, and you will cause to be made a plat thereof, indorsed with your ap-

proval, designating the number and description of the location, and the value of the labor and improvements on said mining claim; and that you will transmit duplicate copies of said plat to applicant, together with a certified copy of the field-notes of survey of said mining claim.

The expenses of office work, _____dollars, _____ herewith tender, and request that prompt action be taken herein. _____, Claimant.

Form C.

APPLICATION FOR PATENT.

_____, County of _____, ss.

APPLICATION FOR PATENT FOR THE _____ MINING CLAIM.

To the Register and Receiver of the U. S. Land-Office at _____.

_____ being duly sworn according to law, deposes and says, that in virtue of a compliance with the mining rules, regulations and customs, by himself, the said _____ and his co-claimants, _____, applicants for patent herein have become the owner of and are in the actual, quiet and undisturbed possession of _____ linear feet of the _____ vein, lode or deposit, bearing _____ together with surface ground _____ feet in width, for the convenient working thereof as allowed by local rules and customs of miners; said mineral claim, vein, lode or deposit and surface ground being situate in the _____ mining district, County of _____, and of _____, and being more particularly set forth and described in the official field notes of survey thereof, hereto attached, dated _____ day of _____ A.D. 187-, and in the official plat of said survey, now posted conspicuously upon said mining claim or premises, a copy of which is filed herewith. Deponent further states that the facts relative to the right of possession of himself (and his said co-claimants hereinbefore named) to said mining claim, vein, lode or deposit and surface ground, so surveyed and platted, are substantially as follows, to wit:

[Description of claim.]

Which will more fully appear by reference to the copy of the original record of location and the abstract of title hereto attached and made a part of this affidavit; the value of the labor done and improvements made upon said _____ claim, by himself and his grantors, being equal to the sum of five hundred dollars in gold coin of the United States. In consideration of which facts, and in conformity with the provisions of Chapter VI. of Title XXXII. of the Revised Statutes of the United States, application is hereby made for and in behalf of said _____ for a patent from the Government of the United States for the said _____ mining claim, vein, lode, deposit and the surface ground so officially surveyed and platted.

Subscribed and sworn to before me, this _____ day of _____ A.D. 187-; and I hereby certify that I consider the above deponent a credible and reliable person, and that the foregoing affidavit to which was attached the field notes of survey of the _____ mining claim was read and examined by him before his signature was affixed thereto and the oath made by him.

[SEAL.]

[The above is slightly changed in applying for placer mines.]

Form D.

PROOF OF POSTING NOTICE AND DIAGRAM OF THE CLAIM.

_____ of _____, County of _____, ss.

_____ and _____, each for himself, and not one for the other, being first duly sworn according to law, deposes and says, that he is a citizen of the United States, over the age of twenty-one years, and was present on the _____ day of _____, A.D. 187-, when a plat representing the _____ and

certified to as correct by the United States Surveyor-General of ———, together with a notice of the intention of ——— and ——— to apply for a patent for the mining claim and premises so platted, was posted in a conspicuous place upon said mining claim, to wit: upon ———, where the same could be easily seen and examined; the notice so conspicuously posted upon said claim being in words and figures as follows, to-wit:

Legal notice of the application of ——— and ——— for a United States patent.

Notice is hereby given that in pursuance of Chapter VI. of Title XXXII. of the Revised Statutes of the United States, ——— and ———, claiming ——— linear feet of the ——— vein, lode or mineral deposit, bearing ———, with surface ground ——— feet in width, lying and being situate within the ——— Mining District, county of ———, and ——— of ———, has made application to the United States for a patent for the said mining claim, which is more fully described as to metes and bounds by the official plat herewith posted, and by the field-notes of survey thereof, now filed in the office of the Register of the District of Lands, subject to sale at ———, which field-notes of survey describe the boundaries and extent of said claim on the surface, with magnetic variation at ——— east, as follows, to wit:

[Full description by courses and distances.]

the said mining claim being of record in the office of the recorder of ———, at ———, in the county and ——— aforesaid, the presumed general course or direction of the said ——— vein, lode or mineral deposit being shown upon the plat posted herewith, as near as can be determined from present developments, this claim being for ——— linear feet thereof, together with the surface ground shown upon the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented being bounded on the ——— by the ——— mining claim, the said ——— claim being designated as lot No. ——— in the official plat posted herewith.

Any and all persons claiming adversely the mining ground, vein, lode, premises, or any portion thereof, so described, surveyed, platted, and applied for, are hereby notified that unless their adverse claims are duly filed as according to law and the regulations thereunder within sixty days from the date hereof with the Register of the United States Land-office at ———, in the ——— of ———, they will be barred, in virtue of the provisions of said statute.

Dated on the ground this ——— day of ———, A. D. 187-.

Witness:

Subscribed and sworn to before me this ——— day of ———, A. D. 187-, and I hereby certify that I consider the above deponents credible and reliable witnesses, and that the foregoing affidavit and notice was read by each of them before their signatures were affixed thereto and the oath made by them.

Form E.

PROOF THAT PLAT AND NOTICE REMAINED POSTED ON CLAIM DURING TIME OF PUBLICATION.

——— of ——— County of ———, ss.

———, being first duly sworn according to law, deposes and says, that he is claimant (and co-owner with ———) in the ——— mining claim, ——— mining district, ——— County, ———, the official plat of which premises, together with the notice of intention to apply for a patent therefor was posted thereon, on the ——— day of ———, A. D. 187-, as fully set forth and described in the affidavit of ——— and ———, dated the ——— day of ———, A. D. 187-, which affidavit was duly filed in the office of the Register, at ———, in this case; and that the plat and notices so mentioned and described, remained continuously and conspicuously posted upon said mining claim from the ——— day of ———, A. D. 187-, until and including the ——— day of ———, A. D. 187-, including the sixty days period during which notice of said application for patent was published in the newspaper.

Subscribed and sworn to before me, this ——— day of ———, A. D. 187-,

and I hereby certify that the foregoing affidavit was read to the said _____ previous to his name being subscribed thereto; and that deponent is a respectable person to whose affidavit full faith and credit should be given.
[SEAL.] _____, Notary Public.

Form F.

REGISTER'S CERTIFICATE OF POSTING NOTICE FOR SIXTY DAYS.

United States Land office, at _____, _____, 187-.

I hereby certify that the official plat of the _____ lode was filed in this office on the _____ day of _____, A.D. 187-, and that the attached notice of the intention of _____ to apply for a patent for the mining claim or premises embraced by said plat, and described in the field-notes of survey thereof filed in said application, was posted conspicuously in this office on the _____ day of _____, A. D. 187-, and remained so posted until the _____ day of _____, A. D. 187-, being the full period of sixty consecutive days, as required by law; and that said plat remained in this office during that time, subject to examination, and that no adverse claim thereto has been filed.

_____, Register.

[The notice posted in the office should be attached to this certificate.]

Form G.

AGREEMENT OF PUBLISHER.

The undersigned, publisher and proprietor of the _____, a _____ newspaper, published at _____, County of _____, and _____ of _____, do hereby agree to publish a notice, dated United States Land office, _____ required by Chapter VI. of Title XXXII. of the Revised Statutes of the United States, of the intention of _____ to apply for a patent for his claim on the _____ lode, situated in _____ Mining District, County of _____, of _____, and to hold the said _____ alone responsible for the amount due for publishing the same. And it is hereby expressly stipulated and agreed that no claim shall be made against the Government of the United States, or its officers or agents, for such publication.

Witness my hand and seal this _____ day of _____, A. D. 187-.

Witness:

Form H.

PROOF OF PUBLICATION.

_____ of _____, County of _____, ss.

Reprinted copy of { _____, being first duly sworn, deposes and says, Notice of Application. } that he is the _____ of the _____, a newspaper published at _____, in _____ County, in the _____ of _____; that the notice of the application for a patent for the _____ mining claims, of which a copy is hereto, attached, was first published in said newspaper, in its issue dated the _____ of _____, 187-, and was published in each [daily or weekly] issue of said newspaper for [fifty-nine consecutive days, or eight consecutive weeks] thereafter, the full period of sixty days, the last publication thereof being in the issue dated the _____ of _____, 187-.

Subscribed and sworn to before me, this _____ day of _____, A. D. 187-.
[SEAL.] _____, Notary Public.

Form I.

AFFIDAVIT OF FIVE HUNDRED DOLLARS IMPROVEMENT.

_____ of _____ County of _____, ss.

_____ and _____, of lawful age, being first duly sworn according to law, depose and say that they are acquainted with the _____ mining claims in

_____ mining district, county and _____ aforesaid, for which _____ has made application for patent under the provisions of Chapter VI. of Title XXXII. of the Revised Statutes of the United States, and that the labor done and improvements made thereon by the applicant and his grantors exceed five hundred dollars in value.

Subscribed and sworn to before me, this _____ day of _____, A. D. 187-.

[Form used by U. S. Surveyor-General of California.]

AFFIDAVIT OF EXPENDITURES UPON MINING CLAIMS.

We, _____ and _____, being severally sworn, on oath depose and say, that we are citizens of the United States, and of the State of California; that we are well acquainted with the situation and character of the mining claim known as the _____ mine, claimed by _____, located in _____ Mining District, in _____ County, State of California, Township No. _____, Range No. _____, _____ base and meridian, surveyed by _____, U. S. Deputy Mineral Surveyor, in the month of _____, 187-; that the same is a _____ claim, containing _____; that we have no financial interest in said mining claim; that we are conversant with the working of mining claims, and that to the best of our knowledge and belief the amount expended on said mining claim in labor and improvements by the said claimant- or grantor-, is not less than _____ dollars. Said improvement consists of

[SEAL.]

Subscribed and sworn to before me, this _____ day of _____, A. D. 187-.

[SEAL.]

Form J.

STATEMENT AND CHARGE OF FEES.

_____ of _____, County of _____, ss..

_____, being first duly sworn according to law, deposes and says that he is the applicant for patent for the _____ lode in _____ Mining District, County of _____, _____ of _____, under the provisions of Chapter VI. of Title XXXII. of the Revised Statutes of the United States, and that in the prosecution of said application he has paid out the following amount, viz.: to the credit of the surveyor-general's office, _____ dollars; for surveying, _____ dollars; for filing in the local land-office, _____ dollars; for publication of notice, _____ dollars; and for the land embraced in his claim, _____ dollars.

Subscribed and sworn to before me, this _____ day of _____, A. D. 187-.

[SEAL.]

_____, Notary Public.

Form K.

PROOF OF OWNERSHIP AND POSSESSION IN CASE OF LOSS OR ABSENCE OF MINING RECORDS.

_____ of _____ County of _____, ss.

_____ and _____, each for himself, and not one for the other, being first duly sworn according to law, deposes and says that he is a citizen of the United States, over the age of twenty-one years, and a resident of _____ county, _____, and has resided in _____ Mining District, wherein the _____ mine is situate, since _____ day of _____, 187-. That since said date he has been acquainted with the _____ mine, and with the possessors and workers thereof. That said mine was located and has been possessed and worked in accordance with the customs and usages of miners in said district, and in conformity with the rules and regulations regulating the location, holding and working of mining claims, in force and observed in the State of _____. That there are no written records known to deponent existing in said mining district. That affiant is credibly informed and believes that the _____ mine was located in the year 18—, and that if any record was made of said

location, and of the names of locators, the same has not been in existence for a long number of years past, and that by reason thereof the names of locators cannot now be ascertained, and no abstract of title from locators to the present owner can be made. That the possession of applicant and his predecessors in interest of said _____ mine has been actual, notorious, and continuous, to the positive knowledge of deponent, since his residence in said mining district, and that such possession has been perfected and maintained in conformity with mining usages and customs, and has been acquiesced in and respected by the miners of said district. That applicant's right to the said _____ mine is not in litigation within the knowledge of affiant, and that no action or actions have been commenced affecting the right to said mine since his acquaintance therewith (and that the time for the commencement thereof, as required to be instituted under the provisions of the Statute of Limitations of the _____ of _____, has long since elapsed.) That applicant and his predecessors in interest have expended in the improvement, development and working of said mine a sum of money exceeding _____ dollars, as follows, to wit: _____.

Subscribed and sworn to before me, this _____ day of _____ A.D. 187-, and I certify that the aforementioned _____ and _____ are credible and respectable persons, to whose affidavits full faith and credit should be given.

[SEAL.]

Form L.

AFFIDAVIT OF CITIZENSHIP.

_____ of _____, County of _____, ss.

_____, being first duly sworn according to law, deposes and says, that he is the applicant for patent for _____ mining claim, situate in _____ mining district, County of _____; that he is a [native or naturalized] citizen of the United States, born in the County of _____, State of _____, in the year 18—, and is now a resident at _____.

Subscribed and sworn to before me, this _____ day of _____, A.D. 187-.

[SEAL.]

Form M.

CERTIFICATE THAT NO SUIT IS PENDING.

_____ of _____, County of _____, ss.

I, _____, clerk of the court in and for _____ County, _____, do hereby certify that there is now no suit or action of any character pending in said court involving the right of possession to any portion of _____ mining claim, and that there has been no litigation before said court affecting the title to said claim, or any part thereof, for _____ years last past other than what has been finally decided in favor of _____.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at my office in _____, this _____ day of _____, A.D. 187-.

[SEAL.]

_____, Clerk of the _____ Court _____.

Form N.

POWER OF ATTORNEY.

Know all men by these presents, that we, _____ and _____, do hereby constitute and appoint _____ as our attorney in fact, for us and in our names to make application to the United States for the entry and purchase of certain Government lands, in _____ mining district, _____ County, _____

of ———, known as the ——— mining claim and premises; and to have the same surveyed, and to any and all steps that may be necessary to procure from the Government of the United States a patent to the said lands and premises, granting the same to us. And to do all other acts appertaining to the said survey and entry aforesaid as we ourselves could do by our own acts, and in our own proper person.

In witness whereof we have hereunto set our hands and affixed our seals the ——— day of ———, A. D. 187—.

——— of ———, County of ———, ss.

On this ——— day of ——— A.D. 187—, before me, ———, a notary public in and for the ———, county of ———, personally appeared ———, known to me to be the same person whose name ——— subscribed to the foregoing instrument, and acknowledged to me that ——— executed the same.

In witness whereof I have hereunto set my hand and affixed my official seal, at my office, the day and year in this certificate first above written.

[SEAL.]

——— Notary Public.

Form O.

PROTEST AND ADVERSE CLAIM.

United States Land-office, ——— of ———.

In the matter of the application of ———, for a United States patent for the ——— lode or mining claim and the land and premises appertaining to said mine, situated in the ——— mining district, in ——— county, ——— of ———.

To the Register and Receiver of the United States Land-office at ——— and to the above-named applicant for patent for the ——— lode.

You are hereby notified that ———, of the city of ———, county of ———, and ——— of ———, and a citizen of the United States of America, is the lawful owner, and entitled to the possession of ——— hundred feet of the said ——— lode or mine described in said application, as shown by the diagram posted on said claim, and the copy thereof filed in the land office with said application, and as such owner this contestant, the said ———, does protest against the issuing of a patent thereon to said applicant, and does dispute and contest the right of said applicant therefor.

And this contestant does present the nature of his adverse claim, and does fully set forth the same in the affidavit hereto attached, marked Exhibit "A," and the further exhibits thereto attached, and made part of said affidavit.

The said ——— therefore respectfully asks the said register and receiver that all further proceedings in the matter be stayed, until a final settlement and adjudication of the rights of this contestant can be had in a court of competent jurisdiction.

(Place and date.)

EXHIBIT "A."

——— of ———, County of ———, ss.

———, being first duly sworn, deposes and says, that he is a citizen of the United States, born in the State of ———, and is now residing in ———; that he is the contestant and protestant named in, and who subscribed the notice and protest hereto annexed. Affiant further says that he is the owner by purchase and in possession of the (adverse) lode or vein of quartz and other rock in place, bearing ——— and other metals. That the said lode is situated in the ——— mining district, ——— county, ——— of ———.

[The history of the lode may be given, if deemed advisable, as follows:]

This affiant further says, that on the day of its location the premises hereinafter described were mineral lands of the public domain, and entirely vacant and unoccupied, and were not owned, held or claimed by any person or party as mining ground or otherwise, and that while the same were so vacant and unoccupied and unclaimed, to wit:

On the — day of —, 18—, (name locators) each and all of them, being citizens of the United States, entered upon and explored the premises, discovered and located the said — lode, and occupied the same as mining claims. That the said premises so located and appropriated consist of — thousand feet in a —erly direction, and — thousand feet in a —erly direction, together with all the dips, spurs, angles, depths, widths, offshoots and variations, as will fully appear by reference to the notice of location, a duly certified copy whereof is hereunto annexed, marked Exhibit "B," and hereby made a part of this affidavit. That the locators, after the discovery of said — lode, drove a stake on said lode on the discovery claim, erected a monument of stone around said stake, and placed thereon a written notice of location, describing the claim so located and appropriated, giving the names of the locators and quantity taken by each, and after doing all the acts and performing all the labor required by the laws and regulations of said — mining district and territory of —, the locators of said lode caused said notice to be filed and recorded in the proper books of record in the recorder's office in said district on the — day of —, 18—.

Affiant further says, that the said locators remained continuously in possession of said lode, working upon the same, and within — months from the date of said location had done and performed work and labor on said location, in mining thereon and developing the same, more than — days' work, and expended on said location more than — hundred dollars, and by said labor and money expended upon the said mining location and claim, had developed the same, and extracted therefrom more than — tons of ore.

And affiant further says, that said locators, in all respects, complied with every custom, rule, regulation and requirement of the mining laws, and every rule and custom established and in force in said — mining district, and thereby became and were owners (except as against the paramount title of the United States) and the rightful possessors of said mining claims and premises.

And this affiant further says, that said locators proved and established to the satisfaction of the recorder of said — mining district that they had fully complied with all the rules, customs, regulations and requirements of the laws of said district, and thereupon the said recorder issued to the locators of said — lode certificates confirming their titles and rights to said premises.

That the said lode was located and worked by the said locators as tenants in common, and they so continued in the rightful and undisputed possession thereof from the time of said location until on or about the — day of —, A.D. 18—, at which time the said locators and owners of said lode formed and organized under the laws of the State (or territory) of —, and incorporated under the name of the " —," and on the — day of A.D. 18—, each of the locators of said lode conveyed said lode, and each of the rights, titles and interests in and to said lode, to said " — mining company."

On the said — day of —, 18—, the said company entered into and upon said — lode and was seised and possessed thereof and every part and parcel of the same, and occupied and mined thereon until the — day of —, 18—, at which time the said — mining company sold and conveyed the same to this affiant, which said several transfers and conveyances will fully appear by reference to the abstract of title and paper hereto attached, marked Exhibit "D," and made a part of this affidavit.

[In case of individual transfers.]

And this affiant further says that the said —, who located claim — northwesterly of the said — lode, and the said —, who located claim — northwesterly thereon, were seised and possessed of said claims, and occupied and mined thereon until the — day of — 18—, at which time the said — and — sold and conveyed the same to —, and thereupon the said — was seised and possessed of said mining claims and locations, and occupied and mined thereon until the — day of —, 18—, at which time the said — sold and conveyed the same to this affi-

ant, as will fully appear by reference to the abstract of title and paper hereto attached, marked Exhibit "D," and which this affiant hereby makes a part of this his affidavit.

Affiant further says, that he is now and has been in the occupation and possession of the said ——— lode since the ——— day of ———, 18 —, and that said lode and mining claims were located, and the title thereto established, several ——— before said (applied for) ——— lode was located.

[In case the history of the lode is not traced, the following may be inserted:]

And the record title to said (adverse) lode is in this affiant, as will fully appear by reference to the abstract of title and paper hereto attached, marked Exhibit "D," and which this affiant hereby makes a part of this his affidavit.

Affiant further says, that said ——— lode, as shown by the notice and diagram posted on said claim, and the copy thereof filed in the United States land-office at said ——— with said application for a patent, crosses and overlaps said ——— lode, and embraces about ——— hundred feet in length by ——— hundred feet in width of the said ——— lode, the property of this affiant, as fully appears by reference to the diagram or map duly certified by ———, United States Deputy Surveyor, hereto attached, marked Exhibit "C," and which diagram presents a correct description of the relative locations of the said (adverse) lode, and of the (pretended) (applied for) lode.

Affiant further says, that he is informed and believes that said applicant for patent well knew that affiant was the owner in possession and entitled to the possession of so much of said mining ground embraced within the survey and diagram of said applications, as is hereinbefore stated, and that this affiant is entitled to all the ——— and other metal in said adverse lode, and all that may be contained within a space of ——— feet on each side of said (adverse) lode.

And affiant further says, that this protest is made in entire good faith, and with the sole object of protecting the legal rights and property of this affiant in the said (adverse) lode and mining premises.

Subscribed and sworn to before me, this ——— day of ——— A. D. 187—.

SURVEYOR'S CERTIFICATE.

On the diagram marked Exhibit "C," the surveyor must certify in effect as follows:

I hereby certify that the above diagram correctly represents the conflict claimed to exist between the ——— and ——— lodes, as actually surveyed by me. And I further certify, that the value of the labor and improvements on the (adverse) lode, exceeds five hundred dollars.

(Place and date.)

U. S. Deputy Surveyor.

Form P.

NON-MINERAL AFFIDAVIT.

——— of ——— County of ———, ss.

——— and ———, of said county and State, being first duly sworn, each for himself deposes and says that he is well acquainted with ——— claim, situated in ——— mining district, county of ——— and ——— of ———, claimed by ———, applicant for United States patent therefor; that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, in his knowledge, any placer, cement, gravel, or other valuable mineral deposits; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for minerals during any part of the year by any person or persons; that said land is essentially non-mineral land, and that he has no interest whatever in said ———.

Subscribed and sworn to before me this _____ day of _____ A. D. 187--; and I hereby certify that the foregoing affidavit was read to the said _____ previous to his name being subscribed thereto; and that deponent is a respectable person, to whose affidavit full faith and credit should be given.

Form Q.

PROOF THAT NO KNOWN VEINS EXIST IN A PLACER MINING CLAIM.

_____ of _____ County of, _____ ss.

_____ and _____, of the said county and State, being first duly sworn, each for himself, deposes and says, that he is well acquainted with the _____ placer mining claim, embracing _____ situated in the _____ mining district, in the county of _____, and _____ of _____, owned and worked by _____ applicant for United States patent; that for many years he has resided near, and often been upon the said mining premises, and that no known vein or veins of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, exist on said mining claim, or on any part thereof, so far as he knows, and he verily believes that none exist thereon. And further, that he has no interest whatever in the said placer mine of _____.

Subscribed and sworn to before me, this _____ day _____ A. D. 187--.

Form R.

NOTICE OF APPLICATION FOR A UNITED STATES PATENT.

[Notice to be posted with plat on the claim.]

Notice is hereby given that in pursuance of Chapter VI. Title XXXII. of the Revised Statutes of the United States, _____ and _____, claiming _____ linear feet of the _____ vein, lode or mineral deposit, bearing _____, with surface ground _____ feet in width, lying and being situate within the _____ mining district, County of _____ and _____ of _____, has made application to the United States for a patent for the said mining claim, which is more fully described as to metes and bounds by the official plat herewith posted, and by the field-notes of survey thereof, now filed in the office of the Register of the district of lands, subject to sale at _____, which field-notes of survey describe the boundaries and extent of said claim on the surface, with magnetic variation at _____ east as follows, to wit:

[Full description given by courses and distances.]

the said mining claim being of record in the office of the Recorder of _____ at _____ in the County and _____ aforesaid, the presumed general course or direction of the said _____ vein, lode or mineral deposit being shown upon the plat posted herewith, as near as can be determined from present developments, this claim being for _____ linear feet thereof, together with the surface ground shown upon the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented, being bounded as follows, to wit:

[Insert description.]

that said claim being designated as Lot No. _____, in the official plat posted herewith.

Any and all persons claiming adversely the mining ground, vein, lode, premises, or any portion thereof so described, surveyed, platted and applied for, are hereby notified that unless their adverse claims are duly filed as according to law, and the regulations thereunder within sixty days from the date hereof, with the Register of the United States Land-office at _____, in the _____ of _____, they will be barred, in virtue of the provisions of said statute.

Dated on the ground, this _____ day of _____, A. D. 187--.

Witnesses:

Form S.

NOTICE FOR PUBLICATION IN NEWSPAPER.

Application for a Patent to the — Mine No. —.
United States Land-office, — 187—.

Notice is hereby given that —, whose post office address is —, has this day filed his application for a patent for — linear feet of the — mine or vein bearing — with surface ground — feet in width, situate, lying and being in — mining district, County of —, and State of —, and known and designated by the field-notes and official plat on file in this office as Lot No. —, in township — range — of — meridian —. The exterior boundaries of said Lot No. — being as follows, to wit:

Variation —. Commencing — to place of beginning, containing — acres. This claim is bounded —:

[Here insert boundaries.]

The location of this mine is duly recorded in the Recorder's office of —, in Book — of —.

Any and all persons claiming adversely any portion of said — mine or said mining ground as hereinbefore described, are required to file their adverse claim with the Register of the United States Land Office at —, in the State of —, during the sixty days period of publication hereof, or they will be barred by virtue of the provisions of the statute.

Form T.

APPLICATION FOR COAL LAND.

I, —, hereby apply, under the provisions of the Revised Statutes of the United States (sections 2347 to 2352 inclusive), providing for the sale of the lands of the United States containing coal, to purchase the — quarter of section —, in township — of range —, in the district of lands subject to sale at the land-office at —, and containing — acres, and I solemnly swear that no portion of said tract is in the possession of any other party; that I am twenty-one years of age, a citizen of the United States, [or have declared my intention to become a citizen of the United States,] and have never held nor purchased lands under said act, either as an individual or as a member of an association; and I do further swear that I am well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz or other rock in place bearing gold, silver or copper; and that there is not within the limits of said land, to my knowledge, any valuable mineral deposit other than coal. So help me God.

Form U.

DECLARATORY STATEMENT ON APPLICATION FOR COAL LAND.

I, —, being — years of age, and a citizen of the United States, [or having declared my intention to become a citizen of the United States,] and never having, either as an individual or as a member of an association, held or purchased any coal lands under the act approved March 3, 1873, entitled "An Act to provide for the sale of the land of the United States containing coal," or under Chapter VI. of Title XXXII. of the Revised Statutes of the United States, do hereby declare my intention to purchase, under the provisions of said Chapter VI. of Title XXXII. of the Revised Statutes of the United States, the — quarter of section —, in township —, of range —, of lands subject to sale at the district land-office at —,

and that I came into possession of said tract on the _____ day of _____, A. D. 18—, and have ever since remained in actual possession continuously, and have expended in labor and improvements on said mine the sum of— dollars the labor and improvements being as follows:

[Here describe the nature and character of the improvements.]

and I do furthermore solemnly swear that I am well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is not to my knowledge within the limits thereof any vein or lode of quartz or other rock in place bearing gold, silver, or copper; and that there is not within the limits of said land, to my knowledge, any valuable mineral deposit other than coal.

—
Form V.

AFFIDAVIT ON APPLICATION FOR COAL LAND.

I, ———, claiming the right of purchase under Chapter VI. of Title XXXII. of the Revised Statutes of the United States (sections 2347 to 2352), providing for the sale of the lands of the United States containing coal, to the _____ quarter of section ———, in township ———, of range ———, subject to sale at ———, do solemnly swear that I have never had the right of purchase under this act, either as an individual or a member of an association, and that I have never held any other lands under its provisions. I further swear that I have expended in developing coal mines on said tract in labor and improvements the sum of ———, the nature of such improvements being as follows:

[Here describe the nature and character of the improvements.]

that I am now in the actual possession of said mines, and make the entry for my own use and benefit, and not directly or indirectly for the use and benefit of any other party; and I do furthermore swear that I am well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that my knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz or other rock in place bearing gold, silver, or copper; and that there is not within the limits of said land, to my knowledge, any valuable mineral deposit other than coal. So help me God.

I, ———, of the land-office at ———, do hereby certify that the above affidavit was sworn and subscribed to before me this _____ day of ———, A. D. 18—.

INDEX.

As has been stated in the preface to this book, the object is to give a history of all mining legislation in the United States through congressional action, and of the States of California and Nevada by their respective Legislatures. The Statutes of the United States, pertaining to mineral lands, up to December 1, 1873, are included in the Revised Statutes, or are not now in force. Those of California, have undergone many changes. The Acts relating to Foreign Miner's Tax were all incorporated in the Revenue Act of May 17, 1861, which in turn was superseded by Part III., Title IX., of the Political Code. For the general powers of Corporations, reference must be made to the Civil Code, Part IV., Title I., and for further particulars as to Mining Corporations, see Title XI. of same Part; for Water and Canal Companies, see Title VIII. Where a law or any portion thereof has been adopted in the Codes, references are given, showing the section and Code in which the same is incorporated. The letters "C." and "N." in the index, refer to California and Nevada.

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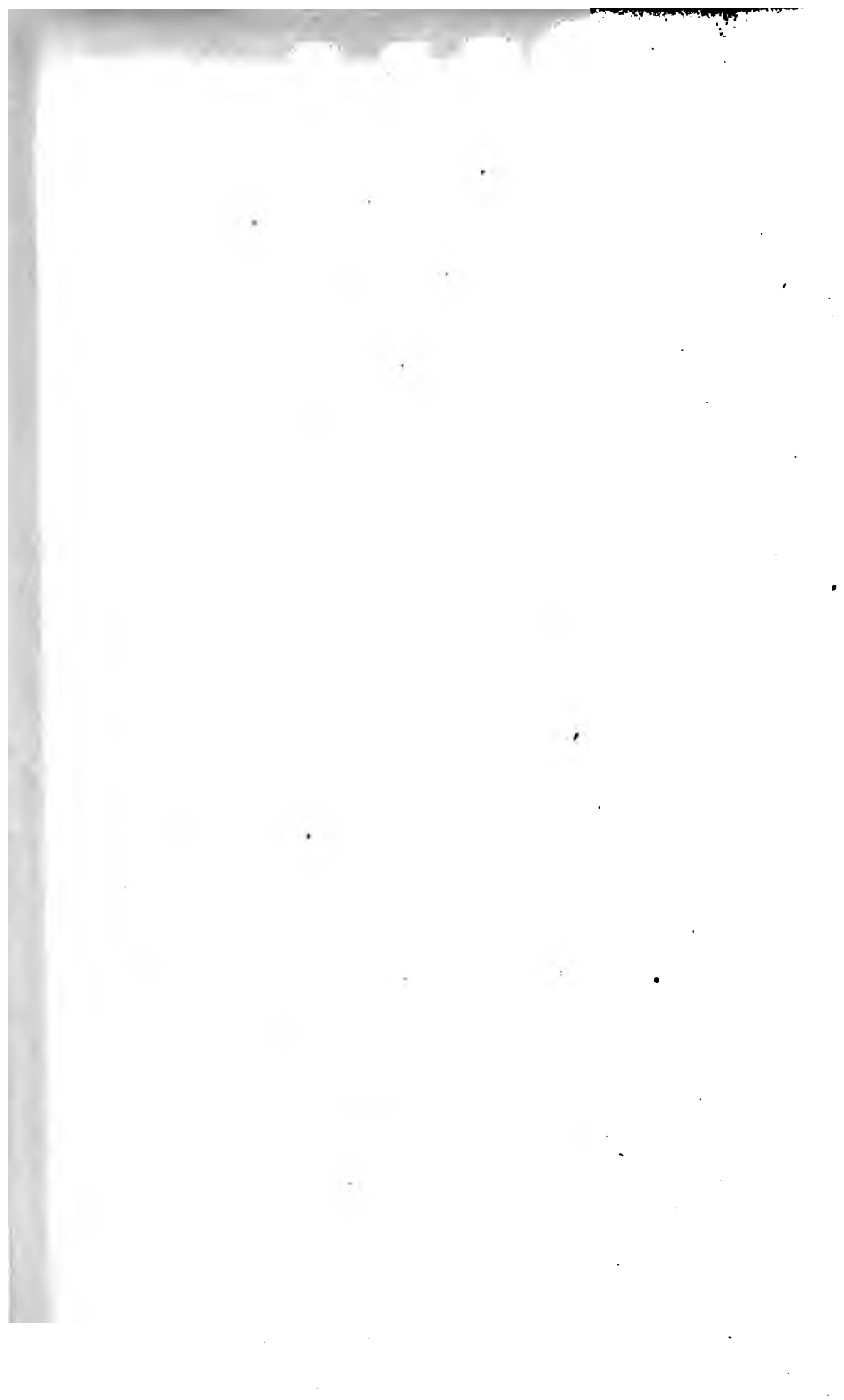
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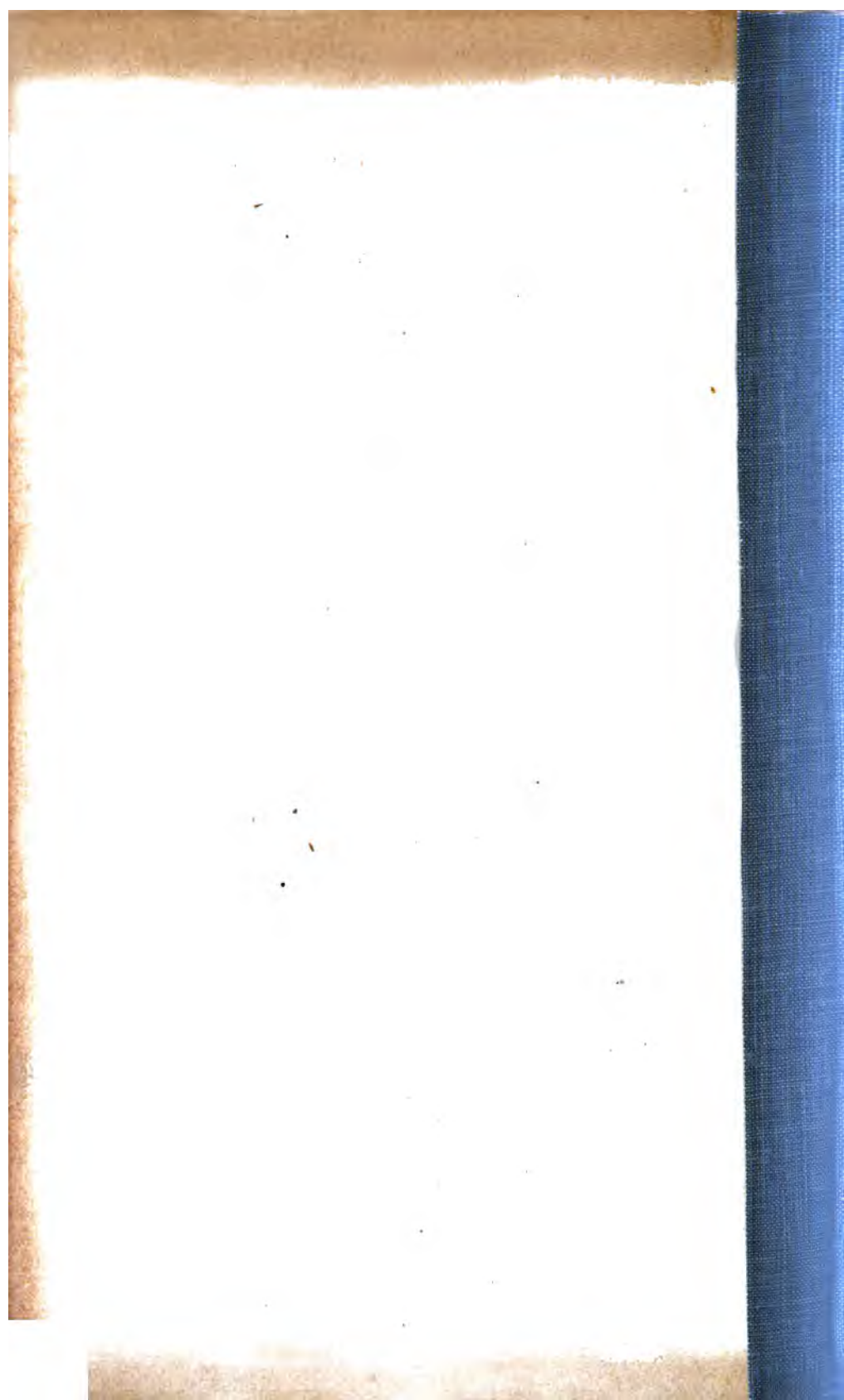
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